

FEDERAL REGISTER

 VOLUME 22 1934 NUMBER 57

Washington, Saturday, March 23, 1957

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

DEPARTMENT OF THE INTERIOR

Effective upon publication in the *FEDERAL REGISTER*, paragraph (a) (8) of § 6.310 is amended, the headnote of paragraph (c) is redesignated "United States Fish and Wildlife Service", subparagraphs (1), (2), (3), (4) and (5) of paragraph (c) are revoked, and a new subparagraph (1) is added to paragraph (c) as set out below.

§ 6.310 *Department of the Interior—(a) Office of the Secretary.* * * *

(8) One Special Assistant and one Confidential Assistant (Administrative Assistant) to each of the Assistant Secretaries for Mineral Resources, Public Land Management, Water and Power Development, and Fish and Wildlife.

(c) *United States Fish and Wildlife Service.* (1) One Special Assistant to the Commissioner of Fish and Wildlife. (R. S. 1753, sec. 2, 22 Stat. 403, 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-2251; Filed, Mar. 22, 1957, 8:49 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 111]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 914.111 *Navel Orange Regulation 111—(a) Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914; 21 F. R. 4707), regulating the handling of navel oranges grown in Arizona

and designated part of California, effective September 22, 1953, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the *FEDERAL REGISTER* (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Navel Orange Administrative Committee held an open meeting on March 21, 1957, after giving due notice thereof to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation

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CFR SUPPLEMENTS

(As of January 1, 1957)

The following Supplement is now available:

Title 32, Parts 700-799 (\$0.50)

Previously announced: Title 3, 1956 Supp. (\$0.40); Title 7, Parts 900-959 (\$0.50), Part 960 to end (\$1.25); Title 9 (\$0.70); Title 17 (\$0.60); Title 18 (\$0.50); Title 20 (\$1.00); Title 21 (\$0.50); Title 26, Parts 1-79 (\$0.35), Parts 80-169 (\$0.50), Parts 170-182 (\$0.35), Parts 183-299 (\$0.30), Part 300 to end, Ch. I, and Title 27 (\$1.00); Title 39 (\$0.50).

Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) The quantity of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., March 24, 1957, and ending at 12:01 a. m., P. s. t., March 31, 1957, is hereby fixed as follows:

(i) District 1: 277,200 cartons;
 (ii) District 2: 785,400 cartons;
 (iii) District 3: Unlimited movement;
 (iv) District 4: Unlimited movement.
 (2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: March 22, 1957.

[SEAL] FLOYD F. HEDLUND,
 Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-2326; Filed, Mar. 22, 1957; 11:17 a. m.]

[Lemon Reg. 679]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.786 *Lemon Regulation 679—(a) Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 20 F. R. 8451; 21 F. R. 4393), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as herein-after set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an

open meeting of the Lemon Administrative Committee on March 20, 1957; such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., March 24, 1957, and ending at 12:01 a. m., P. s. t., March 31, 1957, is hereby fixed as follows:

(i) District 1: 6,510 cartons;
 (ii) District 2: 239,940 cartons;
 (iii) District 3: Unlimited movement.
 (2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: March 21, 1957.

[SEAL] FLOYD F. HEDLUND,
 Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-2307; Filed, Mar. 22, 1957; 9:38 a. m.]

[Lime Order 3, Amdt. 6]

PART 1001—LIMES GROWN IN FLORIDA

QUALITY AND SIZE REGULATION

Findings. (1) Pursuant to the marketing agreement and Order No. 101 (7 CFR Part 1001) regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237;

5 U. S. C. 1001 et seq.) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this regulation relieves restriction on the handling of limes.

It is, therefore, ordered, That the provisions in subparagraph (2) (ii) of paragraph (b) of § 1001.303 (Lime Order 3, as amended; 21 F. R. 5033, 5821, 6159, 7021, 9741; 22 F. R. 1171) are hereby amended to read as follows:

(ii) Any container of limes grown in the State of Florida, except the area west of the Suwannee River, of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) unless the limes in such container grade at least U. S. No. 2 Mixed Color, and are of a size not smaller than 1½ inches in diameter: *Provided*, That not to exceed 5 percent, by count, of the limes in any container may be smaller than 1½ inches in diameter; or

Effective time. The provisions of this amendment shall become effective at 12:01 a. m., e. s. t., April 1, 1957.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: March 20, 1957.

[SEAL] S. R. SMITH,
 Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-2253; Filed, Mar. 22, 1957; 8:50 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6496]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

BARNET EPSTEIN ET AL.

Subpart—*Advertising falsely or misleadingly:* § 13.140 *Old, reclaimed, or re-used as new.* Subpart—*Delivering short measure:* § 13.680 *Delivering short Measure.* Subpart—*Substituting product inferior to offer:* § 13.2263 *Substituting product inferior to offers.*¹

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Barnet Epstein et al. doing business as Fit-Rite Mail Order House, etc., New York, N. Y., Docket 6496, Mar. 9, 1957]

In the Matter of Barnet Epstein and Hyman Schustal, Doing Business as Fit-Rite Mail Order House, Best Mail Order House, and Peoples Mail Order House

This proceeding was heard by a hearing examiner on the complaint of the Commission—charging two individuals engaged in New York City in the mail order sale at retail of children's and women's dresses and other wearing ap-

¹ New.

parel, including used garments, with representing falsely in advertising in magazines and other periodicals that the used apparel they sold was new, and with substituting a substantially lesser number of garments for the "12", "10", and "5" specified—and entry of an agreement containing consent order.

On this basis, the hearing examiner made his initial decision and order to cease and desist which became on March 9 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Barnet Epstein and Hyman Schustal, as individuals or as co-partners trading and doing business as Fit-Rite Mail Order House, Best Mail Order House or Peoples Mail Order House, or under any other trade name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in the offering for sale, sale or distribution of used children's dresses, used women's dresses, or used wearing apparel of any other kind, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "brand-new" or "new" or other words of similar import or meaning to describe said used wearing apparel or otherwise representing, directly or by implication, that said used wearing apparel is new or unused;

2. Advertising, offering for sale or selling said wearing apparel without clearly revealing that it is used merchandise;

3. Substituting, without the prior consent of the purchaser, wearing apparel which differs in grade, quality, quantity, condition or otherwise from that advertised or offered for sale or ordered by the purchaser.

By "Decision of the Commission," etc., report of compliance was required as follows:

It is ordered, That respondents Barnet Epstein and Hyman Schustal, doing business as Fit-Rite Mail Order House, Best Mail Order House, and Peoples Mail Order House, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 8, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-2229; Filed, Mar. 22, 1957;
8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration, Department of Commerce

[BDSA Order M-108 of March 21, 1957]

M-108—ARGON

This order is found necessary and appropriate to promote the national de-

fense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this order, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the order affects many different industries.

Sec.

1. What this order does.
2. Definitions.
3. Applicability of BDSA Reg. 2.
4. Limitations on required acceptance of rated orders for argon during March 1957.
5. Limitations on required acceptance of rated orders for argon beginning with April 1957.
6. Records and reports.
7. Requests for adjustment or exception.
8. Communications.
9. False statements.
10. Violations.

AUTHORITY: Sections 1 to 10 issued under sec. 704, 64 Stat. 816, as amended, sec. 1, Pub. Law 632, 84th Cong., 70 Stat. 408; 50 U. S. C. App. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended, sec. 705, 64 Stat. 816, as amended, sec. 1, Pub. Law 632, 84th Cong., 70 Stat. 408; 50 U. S. C. App. 2071, 2155. E. O. 10480, 18 F. R. 4939; 3 CFR, 1953 Supp.

SECTION 1. What this order does. This order applies to producers of refined argon. It establishes a ceiling limitation for required acceptance of rated orders. Its purpose is to provide equitable distribution of rated orders among producers and to make available a portion of refined argon for nondefense uses.

SEC. 2. Definitions. As used in this order:

(a) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, and includes any agency of the United States Government or of any other government.

(b) "BDSA" means the Business and Defense Services Administration of the United States Department of Commerce.

(c) "Refined argon" means argon of 99.9 percent purity or higher.

(d) "Producer" means any person who manufactures refined argon.

(e) "Scheduled production" means refined argon manufactured by a producer, including refined argon purchased by him for resale.

SEC. 3. Applicability of BDSA Reg. 2. The provisions of BDSA Reg. 2 (formerly NPA Reg. 2) are superseded to the extent that they are inconsistent with the provisions of this order. In all other respects the provisions of BDSA Reg. 2 shall remain in full force and effect.

SEC. 4. Limitations on required acceptance of rated orders for argon during March 1957. (a) Unless otherwise directed by BDSA, no producer of refined argon shall be required to accept rated orders calling for delivery during the period of March 25 through March 31, 1957, of an aggregate quantity of refined argon which exceeds 85 percent of his scheduled production of refined argon for that period: *Provided, however*, That no DX rated order for refined argon shall be rejected for the reason that its

acceptance would result in exceeding the specified percentage.

(b) To the extent that rated orders for refined argon already accepted by a producer exceed 85 percent of his scheduled production of refined argon for the period March 25 through March 31, 1957, he may defer delivery of such excess orders or portions thereof to the immediately succeeding calendar month: *Provided, however*, That he shall not defer delivery of any DX rated orders for refined argon. DO rated orders for refined argon so deferred to the succeeding calendar month shall take precedence over other DO rated orders for refined argon calling for delivery during that calendar month. Such deferred DO rated orders may be included by the producer within the percentage specified in paragraph (a) of this section for the calendar month in which shipment will be made.

SEC. 5. Limitations on required acceptance of rated orders for argon beginning with April 1957. (a) Unless otherwise directed by BDSA, no producer of refined argon shall be required to accept rated orders calling for delivery during any calendar month, commencing with the month of April 1957, of an aggregate quantity of refined argon which exceeds 85 percent of his scheduled production of refined argon for that calendar month: *Provided, however*, That no DX rated order for refined argon shall be rejected for the reason that its acceptance would result in exceeding the specified percentage.

(b) To the extent that rated orders for refined argon already accepted by a producer exceed 85 percent of his scheduled production of refined argon for any calendar month, commencing with the month of April 1957, he may defer delivery of such excess orders or portions thereof to the immediately succeeding calendar month: *Provided, however*, That he shall not defer delivery of any DX rated orders for refined argon. DO rated orders for refined argon so deferred to a succeeding calendar month shall take precedence over other DO rated orders for refined argon calling for delivery during the current calendar month involved. Such deferred DO rated orders may be included by the producer within the percentage specified in paragraph (a) of this section for the calendar month in which shipment will be made.

SEC. 6. Records and reports. (a) Each person participating in any transaction covered by this order shall make, and preserve for at least 3 years thereafter, accurate and complete records thereof. Such records shall include all rated orders and directives received by such person pertaining to argon, copies of all rated orders for argon placed by such person, and records of all purchases, receipts, inventories, production, use, sales and deliveries of argon. Records shall be maintained in sufficient detail to permit the determination, after audit, whether each transaction complies with the provisions of this order. This order does not specify any particular accounting method and does not require alteration of the system of records customarily

used, provided the records specifically required herein are maintained. Records may be retained in the form of microfilm or other photographic copies instead of the originals by those persons who, at the time such microfilm or other photographic copies are made, maintain such copies of records in the regular and usual course of business.

(b) All records required by this order to be maintained by any person shall be made available for inspection and audit by duly authorized representatives of BDSA at the usual place of business of such person.

(c) Persons subject to this order shall make such records and submit such reports to BDSA as it shall require, subject to the terms of the Federal Reports Act of 1942 (5 U. S. C. 139-139f).

SEC. 7. Requests for adjustment or exception. Any person subject to any provision of this order may file a request for adjustment or exception upon the ground that such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. The filing of a request for adjustment or exception shall not relieve any person of his obligation to comply with any such provision. In examining requests for adjustment or exception claiming that the public interest is prejudiced by the application of any provision of this order, consideration will be given to the requirements of public health and safety, civilian defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

SEC. 8. Communications. All communications concerning this order shall be addressed to the Business and Defense Services Administration, Washington 25, D. C., Ref: BDSA Order M-108.

SEC. 9. False statements. The furnishing of false information or the concealment of any material fact in the course of operation under this order constitutes a violation of this order.

SEC. 10. Violations. Violation of any provision of this order may subject any person committing or participating in such violation to administrative action to suspend his privilege of making or receiving further deliveries of materials, or using materials or facilities, under priority or allocation control and to deprive him of further priority and allocation assistance. In addition to such administrative action, an injunction and order may be obtained prohibiting any such violation and enforcing compliance with the provisions hereof. Any person who without authority wilfully places an order, irrespective of the form thereof, purporting to be or intended as an order placed under the provisions of this order, or who wilfully violates any provision of this order, or who wilfully furnishes false information or conceals any material

fact in the course of operation under this order is guilty of a crime and upon conviction may be punished by fine or imprisonment or both.

This order shall take effect March 21, 1957.

BUSINESS AND DEFENSE
SERVICES ADMINISTRATION,
H. B. MCCOY,
Administrator.

[F. R. Doc. 57-2309; Filed, Mar. 21, 1957;
5:01 p. m.]

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

[Canal Zone Order 46]

PART 24—SANITATION, HEALTH, AND QUARANTINE

EXEMPTION FROM LICENSURE

By virtue of the authority vested in the President of the United States by section 372 of title 2 of the Canal Zone Code, approved June 19, 1934, and delegated to

me by Executive Order No. 9746 of July 1, 1946, as amended by Executive Order No. 10595 of February 7, 1955, § 24.33 of Subpart A of Part 24 of Title 35, Code of Federal Regulations, as adopted and amended by Canal Zone Order 39 of February 26, 1955, 20 F. R. 1392, is further amended to read as follows:

§ 24.33 *Exemption from licensure.* The provisions of §§ 24.1 to 24.35 forbidding the practice of the healing art without a license shall not apply to commissioned medical officers of the United States Armed Forces or of the United States Public Health Service, or to medical officers, interns, and residents-in-training in any other branch of the Federal Government whatsoever, in the discharge of their official duties.

(Sec. 24, 39 Stat. 527, as amended; 2 CZ Code 371, 372; 48 U. S. C. 1310)

WILBER M. BRUCKER,
Secretary of the Army.

MARCH 19, 1957.

[F. R. Doc. 57-2230; Filed, Mar. 22, 1957;
8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 921]

[Docket No. AO-222-A8]

MILK IN THE OZARKS MARKETING AREA

DECISION WITH RESPECT TO TENTATIVE MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Springfield, Missouri, on September 24 and 25, 1956, pursuant to notice thereof which was issued on September 5, 1956 (21 F. R. 6830).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on March 1, 1957, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on March 6, 1957 (22 F. R. 1397).

The material issues of record related to:

1. Reduction in extent of the marketing area;
2. Modification of the distribution of pooled returns to producers supplying pool plants located in Arkansas by raising the location adjustment and providing a separate utilization adjustment;
3. Limitation on the privilege of diverting milk to nonpool plants;

4. Providing for diversion of bulk milk to other handlers;

5. Modification of the pool plant standards;

6. Redefinition of producer-handler;

7. Prorating shrinkage on transfers of milk in bulk;

8. Revision of the classification of inventory changes;

9. Modification of the class II price; and

10. Administrative changes, involving:

(a) Interest charges on payments due the producer-settlement fund and set-off between accounts.

(b) Clarification of the definition of "other source milk";

(c) Clarification of the classification of reconstituted products,

(d) Class II transfers, and

(e) Reinstatement of the permanent Class I price provisions for the months of April, May, and June.

Findings and conclusions. The following findings and conclusions are based on the evidence received at the hearing and the record thereof:

1. **Marketing area.** A handler whose plant is located at Harrison, Arkansas, in Boone County, proposed that that county be deleted from the marketing area.

It is apparent, however, that the procurement and distribution of milk in Boone County has become increasingly competitive since this county was included in the marketing area in August 1954. The increased competition includes additional sales by handlers regulated under the Ozarks and Central Arkansas marketing areas, the purchase of supplemental bulk milk by this handler from other handlers regulated under the Ozarks order, and competition in the procurement of milk both from other Ozarks handlers and from handlers regulated under the Central

Arkansas order. It is concluded that Boone County should not be deleted from the marketing area.

2. *Distribution of pooled proceeds to Arkansas producers.* The Ozarks Milk Producers Association, a newly formed cooperative representing the majority of Grade A producers delivering to handlers located in the northwest Arkansas counties of the marketing area made several proposals relating to the handling of milk in these four Arkansas counties. At the hearing the Association abandoned its support of the application of these proposals to Boone and Marion Counties and limited its testimony to the two remaining Arkansas counties of Benton and Washington. Since there was no additional testimony by any other interested parties concerning the original proposals as made by the Association, this decision relative to the proposals of the Association shall apply only to Benton and Washington Counties.

One proposal made by the Association would increase the Class I differential for handlers located in Benton and Washington Counties from 15 to 25 cents per hundredweight.

The present 15-cent Class I differential was originally provided to reflect the transportation costs of moving milk from Springfield to Arkansas markets. Approximately one-third of the total Class I sales in the Arkansas section of the marketing area is supplied by regulated handlers located in Springfield. It was contended that the differential is no longer sufficient to offset the transportation cost of so moving milk thus placing Springfield handlers at a competitive disadvantage in the Arkansas section of the marketing area. In adjusting this differential, however, care must be exercised to prevent its being set at too high a level, thus placing Arkansas handlers at a disadvantage.

According to the Dairyland Transport Company's schedule of rates which was submitted in evidence, the cost of transporting bulk milk from Springfield to Fayetteville (the major city in Northwest Arkansas) is 22 cents per hundredweight plus 3 percent Federal tax. However, this hauling rate reflects only the transportation cost of spot shipments of bulk milk. It does not adequately reflect the actual cost of hauling packaged milk on a regularly scheduled basis when the hauling equipment is owned and the activities of the driver controlled by the shipping handler. The cost of hauling milk in this instance would probably be less than the 22 cents as contained in the rate schedule particularly if the handler controlling the hauling facilities considered only the variable cost factors such as fuel and labor and did not associate any of the fixed cost factors such as management to the operation.

By far the greater share of milk moved by Springfield handlers to Arkansas is in packaged form. There was no evidence submitted by proponents of the increased Class I differential to indicate that the 25-cent differential would better serve to reflect the transportation cost of packaged milk. To increase the location differential without substantial evi-

dence that such an increase is warranted would place Arkansas handlers at a competitive disadvantage relative to order handlers located in Springfield, Missouri. It is, therefore, concluded that the present differential should be maintained.

The Arkansas producers also proposed that payments to those producers supplying the plants located in Benton and Washington Counties, Arkansas, be computed on the utilization of milk by these handlers instead of being computed at the marketwide utilization of milk.

The Ozarks order provides for the marketwide pooling of payments by handlers and the payment of a uniform blend price to producers. The usual alternative is to provide for individual-handler pooling, under which the producers supplying milk to each individual handler receive a blend price based on that particular handler's utilization of milk. An important element in deciding whether to adopt marketwide or individual-handler pooling in any market is the degree to which handlers have become specialized in caring for the daily and seasonal reserve of milk. Such specialization has occurred to a major extent in the Ozarks area where a cooperative association of producers manufactures a large volume of the reserve milk and where some handlers receive only such quantities as are needed for bottling purposes. In such circumstances a marketwide pool serves to equalize returns between those producers delivering to high-utilization plants and those delivering to plants which care for the reserve milk. There was no proposal or testimony at the hearing relative to changing from marketwide to individual-handler pooling in the Ozarks market.

In two major respects the marketing of milk in Benton and Washington Counties remains closely interrelated with the marketing of milk in the Missouri portions of the area. Slightly over one-third of the total Class I sales in these counties are made by handlers whose plants are located outside of these counties, the bulk of them by handlers located at Springfield, Missouri. Also, the handlers located in the two Arkansas Counties specialized in bottling to the extent of depending upon other Ozarks handlers for supplementary supplies in the months of lowest production. These facts support the inclusion of Benton and Washington Counties in the Ozarks marketing area. A proposal by one of the Arkansas handlers to delete these counties from the marketing area was not supported at the hearing. The specialization of the Benton and Washington County plants also supports the continuance of marketwide pooling.

The Arkansas producers' request for a utilization differential was based principally on the competition of other markets for locally produced milk. The competitive markets include Tulsa, Oklahoma, and Dallas, Texas. However, this same competition and that from additional markets is active in the Ozarks market as a whole. The Producers Creamery Company operates a supply plant for the Dallas market at Monette and supply plants for the St.

Louis market at Lebanon and Cabool and has a substantial number of members who ship directly to Kansas City plants. The Monette plant is also currently receiving milk from approximately 148 shippers located in Northwest Arkansas who are not members of Producers Creamery Company. These competitive markets have not so far jeopardized the adequacy of the supply of milk for the Ozarks market as a whole, nor is there any noticeable downward trend in the supply-sales relationship at the plants located in Benton and Washington Counties.

It is concluded that sales proceeds throughout the entire Ozarks marketing area should continue to be pooled on a marketwide basis.

3. *Diversion of milk to nonpool plants.* The order presently imposes no limits on the time or extent to which producer milk may be diverted to a nonpool plant for the account of any handler (including a cooperative association).

It was proposed by a cooperative association which operates a supply plant that the diversion privilege be limited during the low production months of September through January to not more than 10 days in any of these calendar months. They pointed out that the diversion privilege is primarily intended to promote efficiency in the marketing of milk not needed at the pool plants for bottling purposes. It is frequently possible for excess milk to be hauled directly from the farms to a nonpool plant for manufacturing instead of being physically received at the pool plant and then transferred to a manufacturing plant. Most commonly, these movements occur during the months of flush production. However, diversions may occasionally be necessary during the months of low production to accommodate excess milk during holiday periods or on weekends.

Representatives of bargaining associations which do not operate plant facilities pointed out that they have a special problem in this regard. They wish to be in a position to market their members' milk even during times of temporarily reduced demand. Such associations may need to market their members' milk by diversion to nonpool plants even during the five months of lowest production in the event of nonacceptance by the handler, labor disputes involving the hauling, processing or delivery of milk, or unseasonably high rates of milk production due to abnormal weather or other causes.

It is concluded that the diversion privilege should be limited to 10 days in any of the months of September through January. The 10-day period is sufficiently long to accommodate the types of movement to nonpool plants cited by certain cooperative associations. On the other hand, it will accomplish a desirable limitation of the privilege. The 10 days refers to 10 days' production of milk; bulk tank milk is commonly picked up from farms only on an every-other-day schedule and 10 days' production is included in five deliveries. If more than 10 days' milk is diverted, the dairy

farmer would lose his status as a producer during the entire delivery month.

4. *Diversion to other handlers.* One proposal considered at the hearing was designed to accommodate efficiencies resulting from the system of collecting milk from farms in bulk tank trucks.

One cooperative association owns and operates insulated tank trucks in which the milk of producers who have bulk cooling tanks on the farm is picked up and transported to the distributing plants of handlers. Recently there has been a very rapid expansion in the number of bulk cooling tanks being installed on the farms and in the number of tank trucks acquired by the cooperative to transport such milk. It is extremely likely that the trend in this direction will continue at a very rapid rate. Other cooperative associations may also become involved in this type of operation.

The transportation of milk from farm to market in insulated tank trucks owned or operated by or under contract to the cooperative association has created a problem with respect to the determination of the responsibility to the individual producers. When milk comes to the market in cans, the milk of the individual producers is dumped, weighed, and a sample taken for butterfat testing by an employee of the plant where the milk is utilized. The operator of the plant is fixed with the responsibility for paying the individual producer for the pounds of milk received at the determined butterfat test.

When milk moves to market in a tank truck, the weight of the milk is checked and a sample for butterfat testing is taken at the farm. The milk of several producers is intermingled in the tank truck. When the tank trucks are owned or operated by or under contract to the cooperative association, the weight of each producer's milk is checked by, and a sample of the milk for butterfat testing is taken by, a person who is an employee of or directly responsible to the cooperative association. The handler who receives the milk of several producers intermingled in the tank has no way of knowing the weight or the butterfat test of the milk of the individual producers whose deliveries made up the load, except as such information may be reported to him by the association. In some instances, particularly in the case of supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

Under these circumstances, it is not proper to make the plant operator responsible for the payment to a producer for a given quantity of milk at a particular test when he has no means of verifying such weights and tests. Rather any cooperative association which qualifies as such under § 921.5 of the order should be made the handler for such milk and should be required to account to the pool for it. The cooperative association would be required to charge the class prices to the plant operator for such milk. The cooperative association in turn would be required to make the monthly reports with respect to such milk and to settle with the producer-settlement fund for it.

With respect to milk received from producers' farms in cans or in tank trucks owned or operated by the distributing plant, the operator of such plant would continue to be the handler for such milk and would be required to account to the market administrator for it. For such milk the handler would make payment to the producer or the cooperative association at the applicable uniform prices.

5. *Modification of the pool plant standards.* It was proposed that the pool plant definitions be amended. The present order provides that an approved plant may be a pool plant if it disposes of at least five percent of producer receipts during the month as Class I in the marketing area; and that a supply plant may be a pool plant if it ships any milk to an approved plant which is a pool plant, and, during specified months has made its milk available to other handlers for Class I disposition.

It was testified that tighter requirements would remove the possibility of plants not normally associated with the Ozarks market from becoming pool plants via token shipments in the case of supply plants or a relatively small sales volume within the area in the case of approved plants.

It is concluded that the present definitions do not adequately define the plants which constitute the regular and dependable supply of fluid milk for the Ozarks market. Only those plants which are operated in such a fashion as to be regular suppliers and distributors should be subject to regulation and entitled to participate in the marketwide pool.

The pool plant definitions should be redrawn to specify in more detail the standards which determine a regular, dependable supply. The standards should recognize the functional differences between the two major types of plants which serve the market. The approved plants from which milk is distributed directly on routes in the marketing area differ substantially in their operations from supply plants which assemble milk and ship it in bulk to approved plants.

An association of producers proposed that higher shipping requirements be required of supply plants new to the market than those required of plants presently associated with the market. However, the standards should, so far as possible, measure a plant's current service to the market rather than past association with it. The standards for new and old plants should be as nearly comparable as possible. The only appropriate variation in the shipping requirements is that they be moderately higher in the flush production months of April, May, and June than in other months of the year.

It is concluded, therefore, that a supply plant may be pooled if it ships 25 percent of its producer receipts during any of the months of April, May, or June, and 20 percent during any other month to an approved plant: *Provided*, That if such plant ships as much as 20 percent of its producer receipts to approved plants during each of the months of September, October, November, and

December it shall be a pool plant through the following August.

The 20 percent represents a comparatively small degree of association with the market. The slightly higher, 25 percent, requirement for plants qualifying in April, May, or June reflects the fact that milk supplies at plants primarily associated with other markets in the region are also at a peak in these months. These plants should not be encouraged to join the Ozarks market on a purely temporary basis for the purpose of participating in the equalization account.

A new supply plant desiring to become a permanent part of the Ozarks market would, of course, be most likely to start shipments during the normally short period, and would maintain its status as a pool plant through the following August if it shipped as much as 20 percent of producer receipts to the market during each of the months of September, October, November and December. However, a new supply plant may come on the market in any of the relatively long supply months by shipping the stated percentages to distributing plants.

Producers proposed that the order language which requires a supply plant to inform the market administrator that producer milk is available for Class I distribution in order to assure pool status in all months of the year should be incorporated in the new supply plant provisions. It appears that these offers may have helped to identify a supply plant with the Ozarks market under the present order which enables a supply plant to become a pool plant as a result of shipping "any" milk to the market. However, the new minimum shipping requirements as contained in this decision will serve more specifically to identify a supply plant and hence the offers need not be continued.

The recommended changes in the standards under which supply plants can qualify as pool plants require consideration of corresponding changes in those applying to distributing plants, defined in the order as "approved" plants. Such plants should also demonstrate a significant association with the market and plants which operate primarily as supply plants should not be permitted to qualify by the distribution of a minor sales volume. These objectives can be accomplished by requiring that approved plants must have not less than fifteen percent of producer receipts disposed of as Class I milk within the marketing area in order to qualify as pool plants. There is no evidence that any approved plant under the present order will experience difficulty meeting the new fifteen percent requirement.

6. *Producer-handler.* Under the terms of the present order, a producer-handler is exempt from the pricing and payment provisions. He does not pay the administrative assessment, nor is his own production included in the marketwide utilization pool.

The simplest form of producer-handler, as described at the hearing, is a person who sells only the milk produced on his own farm. Other operations may be carried on by producer-handlers, and

the orders should be made more specific with regard to the types of activities which can be followed without terminating a person's status as a producer-handler.

The proponents were particularly concerned that a producer-handler not be allowed to utilize other source milk for Class I purposes. Conceivably, a producer-handler could rely primarily on other source milk, including reconstituted solids, and thereby avoid the pricing and payment provisions of the marketing order. This should not be permitted. It was pointed out at the hearing, however, that a producer-handler should be permitted to purchase Class II products from unregulated sources for distribution on his routes. This permission should be extended to the purchase of other source milk, as well as products, for manufacturing uses.

The producer-handler definition should, therefore, be amended to provide that milk be received from no other dairy farm than the farm(s) of the producer-handler, that he distribute milk in the marketing area, and that he may purchase supplemental milk from Class I use only from regulated handlers.

7. *Shrinkage.* The order presently in effect allows the originally receiving handler a maximum of 2 percent shrinkage prorated between producer receipts and other source receipts. It does not allow any shrinkage to the handler who may receive milk by transfer from the handler who originally received the milk.

A cooperative association proposed that the order be amended to recognize that milk incurs relatively little shrinkage in its receipt and relatively much more in its processing, bottling, and distribution. Testimony indicated that receiving plants experience approximately one-half percent shrinkage on that milk received and transferred to another plant for processing and bottling.

It is concluded that the order should be amended to recognize that the greatest amount of shrinkage occurs in the processing and bottling phase of milk distribution. One-half of one percent shrinkage should be allowed on that milk which is received at one plant and transferred to another plant for bottling and distribution. The bottling plant will be allowed up to one and one-half percent shrinkage on that milk received in bulk from another plant.

The same association also proposed that 2 percent of milk received in form other than milk, skim milk, or cream and disposed of in some form other than milk, skim milk, or cream be included as allowable shrinkage. This would allow shrinkage on the reprocessing or conversion of manufactured products. However there was no evidence in the record as to actual loss experience on such operations. It is concluded, therefore, that this aspect of the proposal should be denied.

8. *Classification of inventory.* The present order provides that inventory variation of milk, skim milk, cream, or any Class I product be considered a

Class II utilization. It was proposed that such inventories on hand at the end of the month be classified as Class II, subject to reclassification if utilized in Class I the following month. This proposal should be adopted.

It is essential that some system of classification and allocation be applied to milk in inventory so as to determine the obligation of handlers for producer milk received during the month, but not yet utilized. The order should provide that producer milk from the previous month's closing inventory, which was classified as Class II, have prior claim over other source milk on the Class I utilization for the current month. This can be accomplished in the accounting procedure by considering the opening inventory as a receipt. Under the allocation provisions, the opening inventory would be subtracted from Class II skim milk and butterfat after the subtraction of receipts from other sources. A reclassification charge should be made at the difference between the Class II price in the previous month and the Class I price in the current month if opening inventory is allocated to Class I and there was an equivalent amount of skim milk and butterfat in producer milk classified in Class II milk the previous month after allocating other source milk and shrinkage. Handled in this manner, milk from inventory will be priced to handlers identically with milk derived from current receipts of producer milk during the month.

9. *Class II price.* An operating cooperative association proposed to reduce the butter-powder formula component of the Class II price 6 cents for the flush production months of March through July. At the hearing the proponent expanded his original proposal and requested that the formula be reduced 6 cents during all months. A bargaining cooperative supported the proposal as contained in the notice of hearing but opposed the lowering of the Class II price during the low production period of August through February.

In determining the level of a Class II price, two rough measures set the upper and lower limits of such price. The price should not be so low as to encourage handlers to add Grade A production for manufacturing use. On the other extreme, the price should not be so high as to discourage handlers from processing the normal reserve supply of the market.

Exhibits introduced at the hearing indicate that there has been a steady increase in the volume of Class II milk since the promulgation of the order. Thus it is obvious that the Class II price is not so high as to discourage handlers from accepting the normal surplus of the market. However, the bargaining association testified that in the past it sometimes had difficulty obtaining the order Class II price in flush production months but had not experienced such difficulty in the shorter production months.

In the Ozarks marketing area average daily production in the flush month of this year was approximately 166 per-

cent of the average daily production in the previous short month. Production in the flush month of 1955 was about 161 percent of production in the previous short month. Producers supplying the St. Louis market, however, in the flush months of the same years produced approximately 145 and 150 percent of production in the previous short production month.

The greater flush of milk which must be manufactured in the Ozarks area supports the request that the Ozarks Class II price be reduced to the St. Louis level, at least during the heavier production months. The close alignment between the Ozarks and the St. Louis Class II prices in these months is necessitated by the close proximity of St. Louis supply plants which compete directly with Ozarks handlers for the supplies of milk and in the marketing of manufactured dairy products.

During the shorter production months, however, when the St. Louis market has very little surplus the competitive value of the Ozarks surplus is increased. The testimony of the bargaining cooperative supports this conclusion.

It is therefore concluded that the butter-powder component of the Class II price should be reduced by 6 cents to the same level as is provided in the St. Louis order for the flush months of March through July but should remain at the same level as now contained in the order for the period of August through February.

10. *Administrative provisions—(a) Interest and set-off.* The proposal to add one-half of one percent of any amount due the producer settlement fund for each month or any portion thereof that such payment is overdue should be allowed. This interest rate is not a penalty but represents a fair price for the use of producers' money. Charging interest will avoid giving a handler any incentive to retain money temporarily for use in his business after the date on which it is due the fund.

A cooperative association proposed that the market administrator be allowed to deduct from payments due handlers out of the producer-settlement fund, any amounts such handler may owe the market administrator as on adjustment of accounts for marketing services or for expense of administration.

There had been instances during the past year when handlers had received payment from the producer-settlement fund while having balances due the market administrator for marketing services or administration expense. To the extent that a handler is successful in such practices, the market administrator is denied payment for services performed. It is not the intent of the order to guarantee payment to a handler from an account trusted by the administrator when such handler is overdue in his payments to the administrator. It is therefore concluded that the order should be amended to prevent the occurrence of this inequity in the future.

(b) *Other source milk.* The definition of other source milk should be clarified to require accounting for receipts of

Class II products only if they are used in a handler's plant to produce another product rather than on the basis of whether or not such receipts are in fluid form. The entire definition should also be rephrased to conform to that in the St. Louis order, since the two orders involve some of the same handlers. No changes in the cost of milk to handlers are involved in these modifications.

(c) *Reconstituted fluid milk products.* The order should provide more specifically for computing all the nonfat solids in Class I items on the basis of skim milk equivalent. This can be accomplished by specifying that the skim milk equivalent of reconstituted fluid milk products be defined as Class I utilization. One type of "reconstituted product" is made by adding condensed skim milk or nonfat dry milk to such Class I items as fluid skim milk, buttermilk, and chocolate drinks. Since such products compete directly with producer milk, the skim milk equivalent should be classified as Class I and has been so considered by the market administrator. Reconstitution of solids in the manufacture of Class II products, such as ice cream, can also affect the quantity of milk in Class I through the allocation process, and solids so used should also be converted to the skim milk equivalent.

(d) *Class II transfers.* Producers proposed that the transfer provisions should be amended to allow under certain conditions Class II transfer or diversion of bulk milk to a nonpool plant located not more than 100 miles from the marketing area. The present order classifies bulk milk so moved to a nonpool plant located more than 50 miles from the area as Class I.

Producers testified that with the advent of bulk milk, it is sometimes more economical to divert producer milk during flush production periods to manufacturing plants which are outside the 50 mile zone but which are nearer to producers' farms than are plants within the fifty-mile zone. Also, finding number 9 of this decision indicates the severe competition between Ozarks and St. Louis order producers for the disposal of surplus milk. Therefore, it is concluded that this proposal should be allowed.

(e) *Class I price.* Effective April 1, 1956, the Class I price was related to the St. Louis Class I price for the months of April, May, and June, instead of being based on a differential over the basic formula price. The phrasing of the amendment inadvertently deleted all reference to Class I prices for these months in the years following 1956. The Class I price provisions for the months of April, May, and June which were in effect prior to April 1, 1956, should be reinstated.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price

of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings. Within the period reserved for filing exceptions to the recommended decision, exceptions were submitted on behalf of interested parties. These exceptions have been fully considered and to the extent to which the findings and conclusions of this decision are at variance with the exceptions, such exceptions are hereby overruled.

Determination of representative period. The month of January 1957, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order, as amended, regulating the handling of milk in the Ozarks marketing area, in the manner set forth in the attached amending order, is approved or favored by producers, as defined in the order, as amended, and as proposed hereby to be further amended, who, during such representative period, were engaged in the production of milk for sale in the marketing area as defined in the order, as amended, and as proposed hereby to be further amended.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Ozarks Marketing Area", and "Order Amending the Order, as amended, Regulating the Handling of Milk in the Ozarks Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 19th day of March 1957.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.

Order¹ Amending the Order, as Amended, Regulating the Handling of Milk in the Ozarks Marketing Area

§ 921.0 *Findings and determinations.* The findings and determinations herein-after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Springfield, Missouri, on September 24 and 25, 1956, upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Ozarks marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Ozarks marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended as set forth below:

1. Amend § 921.7 by deleting the words following the semicolon in (b) "which milk is delivered from the farm to a pool plant or diverted from a pool plant to

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

a nonpool plant for the account of a handler" and substituting therefor the following: "which milk is (1) delivered from the farm to a pool plant, or (2) diverted during any of the months of February through August, or to the extent of not more than 10 days' production during any of the months of September through January, by a handler from a pool plant to a nonpool plant for the account of a handler."

2. Revise § 921.8 to read as follows:

§ 921.8 *Handler*. "Handler" means:

(a) Any person in his capacity as the operator of an approved plant or a pool plant;

(b) A cooperative association, with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered); or

(c) Any cooperative association with respect to the milk from any producer member of such association which is diverted from a pool plant to a nonpool plant by such cooperative association for its account.

3. Amend § 921.11 to read as follows:

§ 921.11 *Pool plant*. "Pool plant" means:

(a) An approved plant from which not less than 15 percent of its receipts of producer milk during the month is disposed of as Class I milk in the marketing area to wholesale or retail outlets (including sales through vendors or plant stores);

(b) A supply plant from which a quantity of milk equal to at least 25 percent of its supply of milk from producers and from other pool plants is shipped to an approved plant during any of the months of April, May, or June, or 20 percent in any other month: *Provided*, That if such plant shall ship 20 percent or more of such supply to an approved plant during each of the months of September, October, November and December, such plant shall be designated as a pool plant during each of the subsequent months through the following August, unless such plant requests nonpool designation by means of written application to the market administrator; or

(c) Any supply plant which ships any milk to an approved plant which is a pool plant in any month during the period from the effective date hereof through August 31, 1957: *Provided*, That such supply plant shall not be a pool plant for the months of April, May, June, or July, unless such plant makes its milk available to other handlers for distribution as Class I milk in the marketing area. Such milk shall be considered to have been made available if the operator of such plant files with the market administrator on or before the first day of each of the preceding months of August through March a statement offering milk for sale and specifying terms and conditions of sale, including the price or handling charge above the Class I price;

such offer to be posted in the market administrator's office.

4. Amend § 921.14 to read as follows:

§ 921.14 *Other source milk*. "Other source milk" means all skim milk and butterfat contained in: (a) receipts during the month in the form of products designated as Class I milk pursuant to § 921.41 (a), except (1) such products approved by the appropriate health authority for distribution as Class I milk in the marketing area which are received from pool plants, or (2) producer milk; and (b) products designated as Class II milk pursuant to § 921.41 (b) (1) from any source (including those from a plant's own production) which are reprocessed or converted to another product in the plant during the month.

5. Amend § 921.15 to read as follows:

§ 921.15 *Producer-handler*. "Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions is met during the month:

(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) Fluid milk products are disposed of on routes or through a plant store to retail or wholesale outlets in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of a product designated as Class I milk pursuant to § 921.41 (a) does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of a product designated as Class I milk pursuant to § 921.41 (a) from pool plants of other handlers.

6. Amend § 921.41 (b) to read as follows:

(b) Class II milk shall be all skim milk and butterfat:

(1) used to produce any product other than those specified as Class I in paragraph (a) of this section;

(2) in inventory of products designated as Class I milk in § 921.41 (a) on hand at the end of the month;

(3) in shrinkage allocated to receipts of producer milk but not in excess of 2 percent of receipts of skim milk and butterfat, respectively, directly from producers (except producer milk diverted in producer cans to a nonpool plant pursuant to § 921.7) and pursuant to § 921.8 (b) from cooperative associations, plus 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in bulk tanks from pool plants of other handlers, less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank lots to the pool plants of other handlers; and

(4) in shrinkage allocated to receipts of other source milk.

7. Amend § 921.42 (b) to read as follows:

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 921.8 (b), and in

bulk tanks from pool plants of other handlers, and (2) the receipts of skim milk and butterfat in other source milk.

8. Amend § 921.45 to read as follows:

§ 921.45 *Computation of skim milk and butterfat in each class*. For each month, the market administrator shall correct for mathematical and other obvious errors the reports submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all the water originally associated with such solids.

9. Amend § 921.44 (d) by deleting "50" and substituting therefor "100".

10. Amend § 921.46 (a) by renumbering subparagraphs "(5)", "(6)" and "(7)" as "(6)", "(7)" and "(8)", respectively, and adding a new subparagraph (5) as follows:

(5) Subtract from pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of products designated as Class I milk in § 921.41 (a) on hand at the beginning of the month: *Provided*, That if the pounds of milk in such inventory shall exceed the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk remaining in Class I.

11. Amend § 921.51 (a) to read as follows:

(a) *Class I milk*. For each of the months of July through March the Class I price shall be the Class I price announced for such month under Order No. 3, as amended, regulating the handling of milk in the St. Louis marketing area, minus 27 cents, and for the months of April, May and June the price for Class I milk shall be the basic formula price for the preceding month plus 63 cents: *Provided*, That 15 cents shall be added to the price for Class I milk at pool plants located in Benton and Washington Counties, Arkansas.

12. Amend § 921.51 (b) (3) to read as follows:

(b) *Class II milk*. * * *

(3) From the sum of the result arrived at under subparagraphs (1) and (2) of this paragraph subtract 81 cents.

13. Amend § 921.70 by deleting paragraph (c) and adding new paragraphs (c) and (d) as follows:

(c) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified as Class II milk (other than as shrinkage) during the preceding month or the hundredweight of milk subtracted from Class I milk pursuant to § 921.46 (a) (5) and the corresponding step of § 921.46 (b), whichever is less; and

(d) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 921.46 (a) (8) and (b) by the applicable class prices.

14. Amend § 921.80 (a) (2) by deleting the words "pursuant to § 921.89" and substituting therefor the words "pursuant to § 921.87".

15. Amend § 921.84 to read as follows:

§ 921.84 *Payments to the producer-settlement fund.* On or before the twelfth day after the end of each month, each handler shall pay to the market administrator the amount by which the value of the milk received by such handler, as determined pursuant to § 921.70, is greater than the amount computed by multiplying the hundredweight of such handler's milk by the uniform price adjusted by the producer butterfat and location differentials: *Provided*, That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof of that such payment is overdue. Such payment shall be considered to be overdue on the 15th day after the end of the month to which the obligation applies.

16. Amend § 921.85 by changing the last period to a colon and adding the following proviso: "And provided further, That the market administrator may deduct from payments due handlers pursuant to this section any unpaid balance due the market administrator from such handler pursuant to §§ 921.84, 921.86, 921.87 (a) and 921.88."

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17 CFR Part 1013

[Docket No. AO-279]

MILK IN PLATTE VALLEY, NEBRASKA, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR, 900), a public hearing was held at Grand Island, Nebraska, on April 10-13, 1956, pursuant to notice thereof issued on March 7, 1956, (21 F. R. 1538), upon a proposed marketing agreement and order regulating the handling of milk in the Platte Valley, Nebraska, marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on January 24, 1957, (22 F. R. 569), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision, containing notice of opportunity to file written exceptions thereto. The material issues of record related to:

(1) Whether the handling of milk in the Platte Valley, Nebraska, marketing

area is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects interstate or foreign commerce in milk or milk products;

(2) Whether the issuance of an order regulating the handling of milk in the Platte Valley, Nebraska, marketing area will tend to effectuate the declared policy of the act; and

(3) The appropriate terms and conditions to be included in an order with respect to:

- (a) Marketing area,
- (b) Milk to be priced,
- (c) Classification of milk,
- (d) Transfers of milk between plants,
- (e) Allocation,
- (f) Class prices,
- (g) Payments to producers, and
- (h) Administrative provisions.

Findings and conclusions. The following findings and conclusions on the material issues are based upon evidence in the record.

1. *Character of commerce.* The handling of milk produced for the Platte Valley, Nebraska, marketing area is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk and its products.

There is interstate commerce in the procurement of milk for this market. One plant from which milk is regularly sold in the marketing area is physically located in Kansas and the majority of its Grade A shippers are also located in that State. Another handler, whose plant is located in the city of Holdrege, Nebraska, has some Grade A producers located in Kansas. Also, this market has regularly depended upon bulk supplemental milk in the fall months when local production is seasonally low. Such supplies are commonly obtained from plants located in Iowa, Minnesota, and Wisconsin. These sources were drawn upon in each of the months of July through December 1954 and August through November 1955. Supplemental milk is also obtained from plants regulated under the Federal milk marketing order for the Omaha-Lincoln-Council Bluffs (Nebraska-Iowa) marketing area. Some of this other Federal order milk is obtained in bulk form during the same months cited above but other portions are regularly obtained in bottled form throughout the year.

There is also direct interstate commerce in the distribution of milk. One handler distributes regularly into Colorado points from a plant located at North Platte, Nebraska. Another distributes regularly into Kansas points from a plant at Holdrege. A subdealer who does no pasteurizing or bottling of Grade A milk, purchases bottled Grade A milk at wholesale from two plants located in the marketing area and distributes it to various points in Kansas.

The production and distribution of milk for fluid purposes in the Platte Valley market is also closely related to the production and sale of milk for manufacturing purposes. It is generally recognized that the manufactured dairy products are sufficiently storable and transportable to be produced and sold on a national market. The producers of Grade A milk for the Platte Valley mar-

ket are intermingled with the producers of manufacturing grade milk and the prices paid to producers for Grade A milk are established at a sufficient premium over manufacturing prices to encourage producers to undertake the additional expenses involved in Grade A production. Furthermore, the excess milk over and above fluid requirements for the North Platte market is either converted into manufactured products in the handlers' plants or is transferred to specialized manufacturing plants. In either case, substantial portions of the resulting products are sold in interstate commerce and all of them are in direct competition with manufactured dairy products moving in interstate commerce.

It will be noted that there is interstate commerce in three major respects; procurement of milk for the market, distribution by handlers, and in close relationships with the national markets for manufactured dairy products.

2. *Need for regulation.* Marketing conditions in the Platte Valley area are such that the issuance of a marketing order, such as that set forth herein, will tend to effectuate the declared policy of the Act with respect to milk produced for the Platte Valley fluid milk market.

Stability of marketing conditions and reasonable certainty of an adequate supply of pure and wholesome milk can be assured for this marketing area only when all milk handlers in the area have reasonably equal costs of milk according to use and only when farmers supplying the market receive substantially the same prices per hundredweight for milk of equal quality.

These conditions do not now exist. A cooperative association of producers supplies nearly all the milk used by dealers whose plants are located in Grand Island and Hastings. The association sells milk on a class use basis whereby each of the distributors pays the same price for milk used in each of four specified classes. The association pools the sales returns, and each producer is paid the uniform price, subject only to variations in butterfat content and in seasonality of production.

A diversity of purchase plans is in effect at other plants in the area. Both of the handlers operating plants at North Platte pay producers under base and excess plans. One of them assigned his producers fixed bases which remained unchanged regardless of subsequent production changes. The other handler operated a base plan under which individual producers established new bases each fall. However, the proportion of milk paid for at the base price was adjusted to the handler's Class I volume. Moreover, a discounted Class I price was paid by this handler for milk sold in an area outside of North Platte and a discounted Class II price for such portion of the excess milk as could not be accommodated in the handler's plant and had to be separated for sale as cream.

A handler whose plant is located in Kearney paid producers a single price for Grade A milk in each month of 1954 and 1955. In January 1956, he began to pay a separate price, based solely on

butterfat values, for milk utilized for manufacturing purposes. A handler at Holdrege had utilized a base-excess plan for a few years, but was paying a blend price for the several months just prior to the hearing.

These variations in price plans and in net prices paid to producers reflect different raw material costs to the various dealers who are selling milk in the marketing area. A condition of unequal costs among the dealers may cause them to attempt to economize by reducing prices to producers. This in turn would tend to stimulate successive price reductions by competitors. This development is contrary to the interests of producers and over a period of time may jeopardize an adequate supply of milk. Alternatively, some handlers may attempt to achieve equality by reducing the quantity of their purchases of milk in order to obtain the highest possible proportion of the higher valued uses of milk. This reaction, however, may result in intermittent shortages of supply for the market.

If producers receive widely varying prices for their milk, they tend to shift around among milk dealers and to shift in and out of the market. Such shifts may become sufficiently frequent as to jeopardize a dependable supply of pure and wholesome milk.

A marketing agreement and order program is needed to establish and maintain orderly marketing conditions throughout the marketing area. The thorough auditing of the utilization of all milk received by handlers, the checking of butterfat tests and weights of all producer milk, and the publication of complete supply and use data for the market will aid in this objective by assuring producers that they will receive a proper accounting for their milk and by providing full information on market developments.

3. Terms and conditions—(a) Marketing area. The Platte Valley marketing area should include all of the territory within the corporate limits of the six cities of Grand Island, Hastings, Holdrege, Kearney, Lexington, and North Platte and should also include the Naval Ammunition Depot, Hastings, all in the State of Nebraska.

These six cities are served by nine handlers, one of whom operates two fluid milk processing and bottling plants. Four of the ten plants are located in Grand Island, two each in Hastings and North Platte, and one each in Kearney and Holdrege. These handlers are in close competition with each other throughout the marketing area. Two of the handlers cover all six cities, one of them serving the area from two plants. Three other handlers distribute milk in four of the six cities and the remaining four handlers serve only one city each. The Naval Depot purchases milk under contracts which are let on a competitive bid basis.

The six cities all require that milk distributed for fluid purposes meet Grade A standards. In each city, sanitary regulations are patterned on the U. S. Public Health Service standards for Grade A milk and are substantially uniform. The Naval Depot sets its

own standards but, in practice, plants which have qualified for Grade A distribution in the named cities have been acceptable to the military authorities. It is clear, therefore, that milk produced under conditions which make it acceptable for fluid use are substantially uniform throughout the defined marketing area. It follows that a single structure of prices to handlers based on utilization and a uniform blend price to producers will be appropriate.

Producers proposed that the entire area of Hall County, which includes the city of Grand Island, and of Adams County, which includes the city of Hastings, be included in the marketing area. However, there are no Grade A ordinances in effect in the counties outside of the two principal cities. Accordingly, milk sold for fluid purposes in the county areas would not necessarily be of the same quality as that sold in the designated cities, and the same prices would not be appropriate.

(b) Milk to be priced. The type of regulation provided by a milk order is essentially a matter of establishing minimum prices to be paid to dairy farmers who produce milk for the market. The scope of such regulation may be made specific by providing appropriate definitions of the terms "producer," "handler," and "pool plant."

The primary factor in determining which dairy farmers are producers for the market is the plant to which they deliver their milk. Marketing conditions described in the record indicate that the most practical method of order regulation would be to establish minimum prices to all farmers delivering milk to plants from which milk is regularly distributed in the marketing area.

Handlers selling milk in the proposed Platte Valley marketing area receive their milk from dairy farmers at the plants where it is packaged for fluid distribution. Virtually all the plant operators who distribute any milk in the area have the preponderant part of their distribution in the defined marketing area. However, the record does contain mention of a plant operator who appears to have only a marginal portion of his total sales in the defined area. The order should, therefore, stipulate a level of within-the-area operations for determining whether this plant or others which may currently or subsequently distribute milk in the marketing area are to be fully regulated.

It was proposed by producers that plants from which a volume of Class I milk equal to the lesser of (1) 5 percent of total receipts or (2) an average of 600 pounds per day was distributed in the marketing area should be pool plants. The 600-pound limit was included as an alternative because of the possibility that 5 percent of the receipts of some large plant would be so large a quantity in relation to sales of other handlers as to constitute a major influence in the market and thereby require complete regulation. It is concluded that the quantity limitation is the appropriate measure of whether a plant is sufficiently identified with the market to be fully subject to the pricing, payment, and pooling provisions of the

order. The limit of 600 pounds per day is designed to represent a normal-sized retail route or small to medium combination retail and wholesale route. Such volume is not considered a significant factor in this market and it is, therefore, not necessary that such a handler be subject to the entire reporting and payment provisions of the order.

Accordingly, "pool plant" should be defined as a plant at which milk received from dairy farmers is packaged for distribution as Class I milk and from which milk is distributed as Class I milk on a route(s) wholly or partially within the marketing area, except plants exempted because they have distribution of less than 600 pounds on such routes.

The term "route" is used in the definition of pool plant to cover a number of types of distributing operations in which handlers may engage in the proposed marketing area. "Route" should be defined as a sale or delivery (including a sale from a plant or a store) of Class I milk to a wholesale or retail stop(s). Such definition would include as route distribution a sale to or through a vendor.

The term "producer" should be defined to mean any person, other than a producer-handler, who produces milk which has the approval of the health authorities of any community in the marketing area or the approval of the authorities at the Naval Ammunition Depot for consumption as fluid milk in such community and is received at a pool plant. The definition should include a producer whose milk is temporarily diverted to a nonpool plant by a handler for his account. Such a provision will serve to maintain the status of producer for a dairy farmer whose milk temporarily is not needed by the handler and would facilitate interplant movements of milk for the purpose of adjusting to short-term variations in supply and requirements. In order that milk which is diverted would continue to be included in the regular pool computations, it would be treated as if it were received at a pool plant.

There are sanitation requirements applied by local governments within the area with respect to approval of the farms from which milk for fluid consumption may be supplied, and accordingly, such a qualification has been included as a part of the producer definition. Such approval may be indirect. For example, one of the health authorities in the marketing area may approve distribution from a distant plant on the basis of the health inspection to which the distant plant is subject. In such event, the dairy farmers supplying such distant plant would qualify as producers under the Platte Valley order. The order provisions would be uneconomic if they had the result that dairy farmers who have met the health standards for the market shared the returns on fluid sales with farmers who have not met such qualifications.

"Handler" should be defined as any person (1) in his capacity as the operator of any pool plant, (2) in his capacity as the operator of any nonpool plant where milk is processed and packaged for distribution on a route(s) in the marketing area, and (3) any cooperative

association with respect to the milk of any producer which such cooperative association causes to be diverted from producers' farms to a nonpool plant for the account of such cooperative association.

The handler is the person who receives milk from producers and who is responsible for reporting receipts and utilization of milk and payment therefor, with certain exceptions noted below. A cooperative association which markets the milk of its producer members may for short periods of time need to divert producers' milk from pool plants to nonpool plants. If the association is defined as a handler for such milk, even though it has no plant, the producers whose milk is so diverted will continue to receive the uniform price under the order and their milk will be available for fluid use when needed in the fall months or at other times.

The term "producer-handler" would apply to a person who produces milk and operates a plant from which a route(s) is operated wholly or partly in the marketing area, but receives no milk from producers. The order is not intended to establish minimum prices for such operators, but they should be required to make reports to the market administrator. Such reports are necessary to make a determination as to whether the operator is a producer-handler and will also facilitate accounting with respect to transfers of milk from other handlers.

A further exemption from the minimum price regulation is the handler whose plant is a "nonpool plant" because his distribution in the area averages less than 600 pounds per day. Such handlers should also be required to report for reasons similar to those for producer handlers.

"Fluid milk product" is specifically defined in the order because of frequent reference to this group of items. The fluid milk products are those which constitute Class I use, including milk, skim milk, buttermilk, milk drinks (plain or flavored), cream, and cream mixtures for fluid use.

A definition of "other source" milk is included to distinguish it from the regular milk supply which is priced under the order. There are three potential categories of "other source" milk which may be distributed in the marketing area for Class I purposes without subjecting the originating plants to the pricing and pooling provisions of the order. One of these is represented by distributing plants from which an average of 600 pounds or less per day is sold in the marketing area. Another potential category of "other source" milk is that which pool plants may obtain as supplemental milk, either bulk or in bottled form from unregulated plants at times when their supplies of producer milk are not sufficient to cover their Class I utilization. The third category is represented by receipts of supplemental milk at Platte Valley pool plants from plants which are subject to regulation under other Federal orders.

As previously explained, all distributing plants which sell a significant volume of milk for Class I purposes in the marketing area are defined as pool plants and are, therefore, completely subject to

the pricing and pooling provisions of the Platte Valley order. Any plant distributing less than 600 pounds per day in the area would probably have its primary distribution in some other market. It would not be equitable to subject such a plant to complete regulation since its competitors in the other market would not be regulated. Further, since its activities in Platte Valley are so limited, it is not considered necessary to require anything more than such reports and verification as will enable the market administrator to determine precisely the quantity sold in the marketing area.

On the other hand, quantities of supplemental milk received at pool plants can be quite substantial. The Platte Valley market is commonly short of producer milk in the late summer and early fall months of lowest production. This shortage has usually been met by purchasing milk in bulk tank lots from plants in Minnesota, Wisconsin, or other distant points. Under the allocation procedures described in subsequent paragraphs such milk, whether from plants subject to other Federal orders or from totally unregulated plants, is assigned first to the Platte Valley handlers' Class II utilization. This gives local producer milk the priority on Class I use in the market. (An exception, also explained later, is that packaged milk received from plants subject to other Federal orders is assigned to the same Class under the Platte Valley order as in the order of origin.)

No special pricing appears to be necessary for these supplemental supplies. Such milk is commonly higher priced than the prices which have been paid to local producers and also in excess of the price levels provided in the attached order. This supplemental milk has been called upon only when supplies of producer milk were insufficient and, therefore, have not tended to displace producer milk. To the extent these practices continue, the allocation of producer milk to the highest utilization in the Platte Valley plants will continue to be a fully effective means of preventing displacement of producer milk by "other source" milk. If a significant displacement of producer milk by other source supplies occurs under the order, corrective measures can be considered by amendment action.

(c) *Classification of milk.* The proposed order should provide for two classes of milk. Class I should include all skim milk and butterfat disposed of as milk, skim milk, buttermilk, flavored milk drinks, cream and any mixture in fluid form of cream and milk or skim milk. These are the products which are required uniformly by the local health regulations to be made of Grade A milk. Class II should include all skim milk and butterfat used to produce manufactured dairy products which normally are not required to be produced from Grade A milk.

Class II, in addition to including manufactured dairy products, should include actual shrinkage on producer milk in an amount not in excess of 2 percent of receipts from producers and actual shrinkage on other source milk. Unaccounted for milk in excess of a reason-

able allowance for plant loss should be Class I in order to require full accounting by handlers for their receipts. Two percent is considered a reasonable maximum allowance for this purpose and the evidence indicates that an efficiently operated fluid milk plant should be able to keep its shrinkage within this allowance. No limit should be placed on shrinkage of other source milk. Such milk is deducted from the lowest use class under the allocation provisions and to classify any of it as Class I would result in reimbursing producers for shrinkage incurred on milk they did not produce. Since it is not feasible to segregate shrinkage of producer milk from that of other source milk in the same plant, total shrinkage is prorated on the basis of the volume of receipts.

Class II should also include the use of skim milk and butterfat for livestock feed to the extent that verifiable records of such utilization are maintained by handlers.

It will be noted that the uses of milk to be included as Class I are specifically enumerated. Collectively, they are defined as "fluid milk products". All other products, including any new items which may be developed, are automatically in Class II.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Inventory is intended to include stocks on hand of bulk milk, skim milk, and cream and bottled milk and other fluid milk products designated as Class I milk. Manufactured products (Class II) on hand are not included in the inventory account because the milk used to produce such products will already have been accounted for as Class II milk. As previously indicated, handlers will need to keep stock records of such products but they will not be included in inventory for the purpose of accounting for current receipts.

It is concluded that ending inventory should be accounted for as Class II milk. If fluid milk products in inventory are accounted for as Class II milk at the end of a month, it will be necessary to provide a method to deal with the producer milk inventory which is used in the current month for Class I purposes but which the handler accounted for to producers as Class II milk at the end of the previous month. In plants which engage primarily in a fluid milk business, it is quite possible that a decrease in inventory in any given month may exceed their total utilization of milk in Class II. Handlers, at times, also use other source milk in their operations. Producer milk from inventory should have prior claim on Class I sales over current receipts of other source milk. This can be accomplished by considering the ending inventory in one month as a receipt in the following month and subtracting such receipt (under the allocation procedure) in series starting with Class II milk following the subtraction of other source milk. To the extent that opening inventory is allocated to Class I milk and there was an equivalent amount of producer milk classified in Class II milk in the previous month

(after the allocation of other source milk) a reclassification charge should be made at the difference between the Class I price in the current month and the Class II price in the preceding month. This will promote equality in the cost of milk among handlers and returns to producers, irrespective as to whether or not such producer milk is from the previous month's ending inventory or is a current receipt.

In order to provide for the complete and accurate reporting, verification, and auditing of all receipts and uses of milk which are essential to the continued application of class prices, it must be the responsibility of the handler who receives the milk from producers to account for his entire receipts and to prove to the market administrator his claim that such receipts should not be classified as Class I. The handler who first receives the milk from producers is in the best position to satisfy this primary need of a class price plan. Such a handler must be held responsible for reporting the proper utilization of such milk. He must therefore maintain records to establish unquestionable proof of the utilization of the milk he receives.

(d) *Transfers of milk between plants.* Classification of butterfat and skim milk used in the production of Class II items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of. However, since some Class I items may be disposed of to other milk plants for processing, separate classification procedure should be prescribed for transfers to other plants.

Milk, skim milk, cream or other fluid milk products transferred by a handler to the fluid milk plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers indicate in their reports to the market administrator that they desire such milk to be classified as Class II milk. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of shrinkage and other source milk, as described below. On the other hand, if the transferring handler had other source milk during the month, the assignment of products transferred to another plant to the Class I utilization of such plant should be limited so that other source milk in the transferring handler's plant will not be allocated to Class I milk while at the same time producer milk is allocated to Class II milk in the transferee handler's plant.

Milk or skim milk transferred in bulk to a nonfluid milk plant located more than 300 miles distant is presumed to be used for Class I purposes. The costs involved in transporting milk or skim milk in fluid form such a distance are so large that it would not be economically feasible to move the milk for Class II disposition. Also there are adequate facilities for the manufacture of excess milk into Class II products within a radius of 300 miles. The automatic classification as Class I of milk or skim milk moved more than 300 miles will reduce the administrative

expense which would otherwise be involved in having the market administrator verify actual utilization in nonfluid milk plants located at extreme distances from the market.

Cream presents a somewhat different problem since its value is so much greater in relation to its bulk that it may be transported long distances for manufacture. Accordingly, it is provided that cream may be Class II, even if moved to a nonfluid milk plant located more than 300 miles distant from a fluid milk plant if it is clearly labelled as manufacturing grade cream and if prior notice of the intended shipment is furnished to the market administrator.

The more common form of transfer to a nonfluid milk plant by Platte Valley handlers is the movement of excess milk to nearby manufacturing plants. There may, of course, be sales to such plants for fluid purposes. It is provided that transfers of milk, skim milk, or cream from a fluid milk plant to a nonfluid milk plant located less than 300 miles distant be Class I unless Class II use is affirmatively established. Evidence of Class II use consists of a certification by the fluid milk plant operator that the transfer was intended for Class II use, and verification by the market administrator of the records made available by the nonfluid milk plant operator showing that at least an equivalent quantity of milk was utilized for manufacturing purposes.

(e) *Allocation.* In view of the fact that the order class prices apply only to producer milk, it is necessary, if a fluid milk plant has butterfat or skim milk other than that received in producer milk, to determine the quantities of milk in each class to be assigned to current receipts from producers. The milk of producers who are regularly engaged in supplying the market should be assigned the Class I utilization first. This is necessary to insure the stability of the classified pricing program of the order. If the order permitted handlers to obtain other source milk whenever it was advantageous to do so for Class I use while producer milk in the plant was utilized in Class II, the order would not be effective in carrying out the purposes of the act. Also, the market would be deprived of a dependable supply of milk. The system of assigning utilization of milk to receipts from different sources which will carry out this objective is set forth in § 1013.46 of the order.

An exception to the general rule of assigning other source milk first to the lowest class of utilization should be made with respect to packaged milk received from a plant regulated under another Federal order. One of the Platte Valley handlers testified that his plant located in the marketing area was not equipped to bottle half-gallons in paper containers. These packages could be obtained more cheaply from this handler's plant at Lincoln, Nebraska. The milk so packaged is fully subject to the classification and pricing provisions of the Omaha-Lincoln-Council Bluffs order. Moreover, the daily and seasonal reserves of milk associated with such milk are carried by the Omaha-Lincoln-

Council Bluffs producers rather than by the Platte Valley producers. It is concluded, therefore, that fluid milk products in packaged form which are classified and priced under another Federal order should be assigned to the same utilization under the Platte Valley order.

Under this allocation procedure, the skim milk and butterfat, respectively, remaining in each class is assigned to producer milk by making the following deductions from the gross utilization of each handler starting with Class II milk, except as otherwise noted:

- (1) Class II shrinkage of producer milk.
- (2) Other source milk, in bulk form, from plants not regulated under another Federal order.
- (3) Other source milk, in bulk form, from plants regulated under another Federal order.
- (4) Receipts of packaged milk from plants regulated under other Federal orders, according to the classification established under such other order.
- (5) Beginning inventory.
- (6) Receipts from other handlers (according to classification).
- (7) Overage.

Since uniform prices paid producers by each handler are to be calculated monthly, the assignment of utilization described above should be carried out with respect to all milk received during each month. To apply a shorter accounting period would place an accounting and reporting burden upon handlers and increase the cost of administering the order.

(f) *Class prices.* The attached order provides for two classes of milk. Class I includes mainly that milk which is used for fluid purposes and Class II includes the remaining milk, which must be used principally for the manufacture of dairy products.

In the recommended decision independent pricing formulas were developed. They were designed to correspond closely to the class prices under the Omaha-Lincoln-Council Bluffs order (hereinafter referred to as the Omaha order), at the Platte Valley zone, but to utilize the list of Wisconsin and Michigan condenseries and the form of butter-powder formula commonly used in Federal orders other than Omaha.

Exceptions filed by interested parties emphasize the fact that the Omaha and Platte Valley markets are so closely interrelated that class prices should be directly related instead of only approximately equal. It is concluded that this policy should be followed.

Basic formula price. In order to maintain an adequate and stable supply of milk for the market it is necessary that the price of milk for fluid use be closely related to the prices of milk used for manufacturing purposes. Keeping the Class I prices in line with manufacturing prices recognizes the fact that the most common source of replacement and additional Grade A shippers for fluid milk markets in this region of the United States is the conversion of manufacturing shippers. It also recognizes the fact that Class I prices in the adjacent Federal order markets are

based on manufacturing values. The Class I price in the Omaha market is kept in relationship to manufacturing values by using a pricing formula which sets the Class I price at a differential over a basic formula price which reflects manufacturing values.

The Omaha basic formula price is the higher of (1) the average of prices paid to dairy farmers at condenseries located in Wisconsin, Minnesota, Illinois, and Iowa, or (2) a butter-powder formula price. The prices paid by the condenseries are representative of the value of milk in a major manufacturing use and are reported promptly enough for use in establishing a Class I price.

A butter-powder formula is included in the Omaha order and in most Federal orders as an alternative basic formula price. It reflects the value of milk in a major manufacturing use, namely the manufacture of butter and nonfat dry milk. There are times when the butter-powder plants compete more strongly for supplies than the condenseries; such competition affects fluid markets and should be reflected in the fluid milk price.

Class I price. The Class I price differential over the basic formula price should be fixed at a level which will reflect the additional costs involved in producing and transporting to market a year-round supply of milk of Grade A quality. Producers will thereby be provided with financial incentive to produce milk of Grade A quality as compared with the costs of producing milk of manufacturing grade.

The level of Class I prices provided by the Omaha order affords the most direct guide to the establishment of appropriate levels of Class I prices for the Platte Valley market. The Class I differential provided for Omaha is \$1.40 per hundredweight in all months of the year. This differential has been in effect since September 1, 1952, and has been an appropriate price for that market. The western boundary of the procurement area or milkshed for the Omaha market adjoins the eastern boundary of the procurement area for the Platte Valley market and the production conditions in the two areas are closely similar. Direct competition between the distributors in the two markets is not extensive. However, this is partly attributable to the fact that the largest dealers in the two markets operate plants in each and can thereby avoid the inefficiencies represented by overlapping of sales territories. One of the Platte Valley dealers obtains milk in two-quart paper containers from his plant located in Lincoln in order to avoid the expense of installing bottling equipment in his Grand Island plant for a comparatively small volume of business.

The Omaha order provides for location adjustments to producers on milk delivered by them at plants located more than 45 miles from the marketing area in the amount of 10 cents per hundredweight. The same rate of location adjustment applies on milk delivered to the marketing area for Class I purposes from plants located more than 45 miles distant. The same 10-cent adjustment is reflected in the Class I differential pro-

posed by producers for the Platte Valley market and should be adopted. The Platte Valley Class I price will, therefore, be equal to the Omaha Class I price for milk of 3.5 percent butterfat content, less 10 cents per hundredweight.

There is no seasonal variation in the Class I differential. A take-out and pay-back plan, described in more detail subsequently, is relied upon as the means of encouraging producers to deliver a seasonally uniform supply.

Class II price. The Platte Valley Class II price should be equal to the Omaha Class II price for milk of 3.5 percent butterfat content. To serve its proper function, the Class II price should be at such a level that handlers will accept and market whatever quantities of milk in excess of Class I needs as may arise from time to time. The price, however, should not be so low that handlers will be encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

All products included in Class II milk may be made from unapproved milk. Approved milk which may be used in such products by regulated handlers should be priced at a level which is competitive with the cost of milk or milk ingredients that they may need for Class II products processed in conjunction with their fluid milk business.

The Class II price under the Omaha order and that contained in the recommended decision are nearly identical; in 1955 the Omaha Class II price for 3.5 percent milk ranged from \$2.85 in May to \$2.95 in September and averaged \$2.91. The recommended prices ranged from \$2.87 to \$2.94 in the same months, and averaged \$2.90.

A handler who operates a plant at North Platte, Nebraska, proposed a substantially lower Class II price during the flush months of the year. He testified that during such months it is difficult to find manufacturing outlets for whole milk at points near enough to involve reasonable transportation charges. In such circumstances, it is sometimes more feasible to separate the whole milk, sell the cream to more distant plants, and dispose of skim milk by giving it away for livestock feed or letting it run down the sewer. The handlers, therefore, proposed that the price for Class II milk during such months reflects only the butterfat value of the milk. However, it appears that the circumstances which led to this form of disposition by this handler were occasioned, at least in major part, by a realignment of sales territories between the handler's North Platte, and Grand Island plants. There has since been time for a corresponding readjustment in the procurement of milk at the two plants and it seems unlikely that the necessity for such disposition will recur. Also, the higher Class II butterfat differential provided herein, and described in the following paragraphs, will reduce the value of skim milk. It is concluded, therefore, that the level of Class II prices provided herein will be appropriate.

Butterfat differentials. The attached order provides that butterfat and skim milk be accounted for separately for classification purposes. It also provides

that Class and blend prices should be established for milk containing 3.5 percent butterfat, the same basic test as is used in all other Federal orders in this general region except Omaha. It will, therefore, be necessary to adjust Class I and Class II prices in accordance with the average test of the milk in each Class by a butterfat differential which will reflect differences in the value of the milk due to variations in butterfat content.

The Class I butterfat differential for each one-tenth of one percent that the average test of Class I use varies from the basic test should be determined by adding 2.1 cents to the Class II differential. The Class II differential, in turn, should be established at 0.120 times the price of 92-score butter at Chicago.

This Class II differential is somewhat higher than the one proposed by producers. At current support prices for butter and nonfat dry milk, their proposed differential would be 0.111 times the price of 92-score butter. According to the evidence of record the Platte Valley market is commonly more nearly short of butterfat than of skim milk. During the flush season, disposal of skim milk is a more serious problem than disposal of butterfat. Raising the Class II butterfat differential will increase the value attributed to butterfat and will correspondingly reduce the value attributed to Class II skim milk, thus recognizing the higher value of butterfat in relation to solids-not-fat.

Producers proposed that the Class I butterfat differential be 2.6 cents higher than the Class II differential. This reflects the conclusion, commonly accepted in the West North Central States, that 70 percent of the Class I price differential of \$1.30 should be attributed to butterfat and 30 percent to skim milk. The proposed 2.6 cents per one-tenth of one percent variation in butterfat content is the proportionate value, when the 3.5 pounds of butterfat are valued at 70 percent of \$1.30. The proposed 2.6 cents has been reduced to 2.1 cents in recognition of the fact that the Class II butterfat differential has been increased. The resulting Class I differential will be at virtually the same level as the Class I differential proposed by the producers.

The butterfat differential to producers for milk containing more or less than 3.5 percent butterfat should correspond to the weighted average values of the butterfat and skim milk in producer milk utilized by handlers in Class I and Class II. This follows the same principle as the payment of a uniform price to all producers. Each producer shares equally in the total value of the handlers' Class I and Class II utilization, at the basic test of 3.5 percent butterfat. It is equally appropriate that each should receive the average utilization value of the butterfat and skim milk components for milk testing above or below 3.5 percent.

Location adjustments. Location adjustments should apply to all Class I milk distributed by handlers whose plants are located more than 80 miles from the nearer of the City Halls at Grand Island and at North Platte, Nebraska. The rate of adjustment should

be 12 cents per hundredweight for plants located more than 80 but not more than 90 miles distant, plus 1.5 cents per 10 miles or fraction thereof for distances in excess of 90 miles. Distances would be measured by the shortest highway distance as determined by the market administrator.

At the time of the hearing, milk was distributed in the marketing area from a plant located more than 80 miles distant. The quantity so distributed was not sufficient to qualify this plant as a pool plant. However, if this plant or any other begins to sell significant volumes of Class I milk in the area, it should have location credit. This credit should be sufficient to defray transportation costs, since the order is designed to place all handlers on an equal cost basis at the marketing area. Evidence in the record shows that the rate of 1.5 cents per 10 miles appropriately reflects the costs of transporting milk in tank trucks. No separate data were available on the comparative costs of transporting packaged milk. No location adjustment is allowed a distance of less than 80 miles from Grand Island or North Platte since some points within the marketing area are nearly 80 miles from these cities.

Location adjustments to producers should be at the same rates as to handlers but should apply to all of the milk delivered by producers to any plant at which the location adjustments apply.

(g) *Payments for milk.* The attached order provides for a marketwide pool under which all producers supplying the market would receive the same price for their milk regardless of its utilization by the handler who received it. This type of pool contemplates the uniform distribution among all producers in the market of the proceeds of the Class I and reserve supplies of milk.

The largest cooperative association in the area already pools the returns due its members from all the handlers to whom they ship, and pays all members on a uniform basis. This same uniformity of payment should be extended to all producers whose milk is priced under the order.

The marketwide pool will also contribute to the flexibility of milk marketing in the Platte Valley area in two important respects. One is that supplemental supplies can be freely distributed among handlers without affecting the prices paid to producers at each plant. The second is that temporary or seasonal surpluses can be moved between plants, either by transfer of the milk or of the shippers without affecting the prices paid to producers at the individual plants.

A seasonal incentive plan of the same type as is contained in the Omaha-Lincoln-Council Bluffs order was proposed by producers and should be adopted. Both the procurement and sales interrelationships between the two markets make it highly desirable to utilize the same type of seasonal incentive. With similar plans, producers can more readily respond to long-run changes in supply and demand conditions in the two markets without being disturbed by seasonal differences in price plans. Also,

distributors in the two markets will be on comparable competitive footings at all seasons. Under the "take out and pay back" plan the Class I differential remains the same in all months of the year. However, during the flush production months of April, May, and June, an amount equal to 8 percent of the Class I price multiplied by the total production is deducted from payments to producers and held until the shortage months of September, October, and November. One third of the escrow fund is added to the pool in each of these months. The effect is to encourage producers to maximize their production during the months when supplies are lowest in relation to Class I sales and to minimize production during the months of greatest excess.

The order provides that producers be paid once a month and specifies that in the case of qualified cooperative associations the handler shall make payment to the association instead of to the individual members, if the cooperative association has such authority from members and is desirous of exercising such privilege.

Since all producers are to receive the same price for milk (except for butterfat and location differentials), and since the amount which the order requires a particular handler to pay for his milk may be more or less than the amount he is required to pay to producers or cooperative associations, some method of balancing these amounts is necessary. A producer-settlement fund should be established for this purpose. All handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations should pay the difference into the producer-settlement fund; all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization should receive the difference from the producer-settlement fund. Amounts paid into and out of the producer-settlement fund for this purpose will be equal, except for minor differences that may result from rounding off uniform prices. In order to permit this rounding off of prices, to allow for unavoidable delays in receiving payments from handlers, and to permit payments to be made to any handler which audit by the market administrator reveals is due such handler from the producer-settlement fund, a reserve should be held in the producer-settlement fund at all times. The amount of the reserve contemplated in the order should be sufficient for these purposes. This reserve would be adjusted each month.

If at any time the balance in the producer-settlement fund is insufficient to cover payments due to all handlers from the producer-settlement fund, payments to such handlers should be reduced uniformly per hundredweight of milk. The handlers may then reduce payments to producers by an equivalent amount per hundredweight. Amounts remaining due such handlers from the producer-settlement fund should be paid as soon as the balance in the fund is sufficient, and handlers should then complete payments to

producers. In order to reduce the possibility of this occurring, milk received by any handler who has not made payments required of him into the producer-settlement fund during the previous month should be eliminated in the computation of the uniform price in the current subsequent month.

(h) *Administrative provisions.* The remaining provisions of the order are of a general administrative nature, are incidental to the other provisions of the order, and are necessary for the proper and efficient administration of the order. They provide for the selection of a market administrator, define his powers and duties, provide for an administrative assessment, prescribe the information to be reported by handlers and set forth the rules to be followed in making the computations required by the order. They also prescribe the length of time that records must be retained and provide a plan for the liquidation of the order in the event of its suspension or termination. They are similar to like provisions of other orders, and except as set forth below require no comment.

Expenses of administration. As his share of the expenses of administering this order each handler should pay not in excess of 4 cents per hundredweight with respect to all producer milk received, all other source milk received at a pool plant which was classified as Class I milk, and Class I milk distributed in the marketing area from a nonpool plant. The market administrator must verify receipts and utilization of all such milk; therefore all such milk should be subject to the expenses of administration. Experience in other markets indicates that 4 cents per hundredweight with respect to all such milk should yield sufficient money to cover expenses of administration. If payment of expenses of administration at the rate of 4 cents per hundredweight yields more money than is needed, provision is made for the Secretary to prescribe a lesser rate of payment from time to time.

Records and reports. Reports are required from handlers on receipts and utilization so that the market administrator may make the computations necessary to the marketwide pooling operation and the uniform price to producers. Handlers would also be required to submit payroll reports which would show the details of milk receipts from each producer, the value of the milk received from the producer, deductions therefrom, and net amount paid to the producer.

The order should provide limitations on the period of time handlers shall retain books and records which are required to be made available to the market administrator, and on the period of time in which obligations under the order shall terminate. The provision made in this regard is identical in principle with the general amendment made to all orders in operation on July 30, 1947, effective February 22, 1949, and the Secretary's decision of January 26, 1949 (14 F. R. 444) covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of the decision.

Time schedule. Dates must be prescribed for announcing prices, filing re-

ports and making payments. The following time schedule should allow all interested persons adequate time to perform each function. (These time limits apply to the indicated day of the month following the month for which computations are being made.)

Day of the Month and Function

5th—Announcement of class prices by market administrator.

7th—Submission of monthly report of receipts and utilization by handlers.

9th—Announcement of uniform price and names of handlers who received producer milk and notification to handlers of the value of their producer milk by market administrator.

10th—Payment by handlers of amounts due to producer-settlement fund and for expenses of administration.

12th—Payments by handlers to producers and cooperative associations and by market administrator out of producer-settlement fund.

Milk subject to other Federal orders. A handler who operates a plant at which minimum prices to dairy farmers are established under another order issued pursuant to the act, but nevertheless supplies milk for distribution in the Platte Valley marketing area should be exempt from the provisions of this order, except for reporting his volume of Class I sales in the marketing area. It would be impracticable to attempt to regulate a handler under two separate orders with respect to the same milk. The applicable order should be determined by the volume of Class I sales.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act.

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(d) All milk and milk products handled by handlers, as defined in the proposed order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(e) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler regulated by the proposed order as his pro rata share of such expense, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to all milk received during such delivery period from pro-

ducers, other source milk received at a pool plant and classified as Class I, and Class I milk sold in the marketing area from nonpool plants.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and regulatory provisions of this decision, are at variance with any of the exceptions, such exceptions are hereby overruled.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Platte Valley, Nebraska, Marketing Area," and "Order Regulating the Handling of Milk in the Platte Valley, Nebraska, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted among producers to determine whether the issuance of the attached order regulating the handling of milk in the Platte Valley, Nebraska, marketing area, is approved or favored by the producers, as defined under the terms of the proposed order, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of January 1957 is hereby determined to be the representative period for the conduct of such referendum.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 25th day from the date this decision is issued.

Issued at Washington, D. C., this 19th day of March, 1957.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.

Order¹ Regulating the Handling of Milk in the Platte Valley, Nebraska, Marketing Area

Sec.
1013.0 Findings and determinations.

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

DEFINITIONS

Sec.	Act.
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1013.2	Department.
1013.3	Person.
1013.4	Cooperative Association.
1013.5	Platte Valley, Nebraska, marketing area.
1013.6	Producer.
1013.7	Pool plant.
1013.8	Nonpool plant.
1013.9	Route.
1013.10	Handler.
1013.11	Producer milk.
1013.12	Fluid milk product.
1013.13	Other source milk.
1013.14	Producer-handler.
1013.15	Chicago butter price.
1013.16	

MARKET ADMINISTRATOR

1013.20	Designation.
1013.21	Powers.
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REPORTS, RECORDS, AND FACILITIES

1013.30	Reports of receipts and utilization.
1013.31	Other reports.
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CLASSIFICATION

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1013.41	Classes of utilization.
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1013.44	Responsibility of handlers and reclassification of milk.
1013.45	Computation of the skim milk and butterfat in each class.
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MINIMUM PRICES

1013.50	Class I price.
1013.51	Class II price.
1013.52	Butterfat differential to handlers.
1013.53	Location adjustments to handlers.
1013.54	Use of equivalent prices.

APPLICATION OF PROVISIONS

1013.60	Producer handlers.
1013.61	Milk subject to other Federal orders.
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DETERMINATION OF UNIFORM PRICES

1013.70	Computation of value of milk.
1013.71	Computation of the uniform price.
1013.72	Notification of handlers.

PAYMENTS

1013.80	Time and method of payment.
1013.81	Butterfat differential to producers.
1013.82	Location adjustments to producers.
1013.83	Producer-settlement fund.
1013.84	Payments to the producer-settlement fund.
1013.85	Payments out of the producer-settlement fund.
1013.86	Adjustment of accounts.
1013.87	Adjustment of errors in payments to producers.
1013.88	Expense of administration.
1013.89	Termination of obligations.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

1013.90	Effective time.
1013.91	Suspension or termination.
1013.92	Continuing obligations.
1013.93	Liquidation.

MISCELLANEOUS PROVISIONS

1013.94	Agents.
1013.95	Separability of provisions.

AUTHORITY: §§ 1013.0 through 1013.95 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 1013.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR, 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Platte Valley, Nebraska, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts of producer milk, including such handler's own production, other source milk at a pool plant which is classified as Class I milk, and Class I disposed of during the month from non-pool plants on routes in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk the Platte Valley, Nebraska, marketing area shall be in conformity to, and in compliance with, the following terms and conditions:

§ 1013.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 1940 ed. 601 et seq.).

§ 1013.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture authorized to exercise the pow-

ers or to perform the duties of the said Secretary of Agriculture.

§ 1013.3 *Department.* "Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1013.4 *Person.* "Person" means any individual, partnership, corporation, association or any other business unit.

§ 1013.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application of the association:

(a) Is qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

§ 1013.6 *Platte Valley, Nebraska marketing area.* "Platte Valley, Nebraska, marketing area" hereinafter called the "marketing area" means all the territory within the corporate limits of the cities of Grand Island, Hastings, Holdrege, Kearney, Lexington and North Platte, and the Naval Ammunition Depot, Hastings, all in the state of Nebraska.

§ 1013.7 *Producer.* "Producer" means any person, irrespective of whether such person is also handler, who produces milk which is received at a pool plant: *Provided*, That such milk is (a) produced under a dairy farm permit or rating issued by a duly constituted health authority for the production of milk to be disposed of for consumption as Grade A milk, or (b) acceptable to a Federal agency located within the marketing area. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be diverted to a nonpool plant by a handler, and milk so diverted shall be deemed to have been received at a pool plant by the handler who caused it to be diverted.

§ 1013.8 *Pool plant.* "Pool plant" means (a) any plant from which a volume of Class I milk equal to more than an average of 600 pounds per day, is disposed of during the month on routes in the marketing area: *Provided*, That if a portion of a plant is operated separately and no producer milk is received in such portion of the plant, it shall not be considered as part of a pool plant pursuant to this section.

§ 1013.9 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 1013.10 *Route.* "Route" means any delivery (including delivery by a vendor or sale from a plant store) of a fluid milk product to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1013.11 *Handler.* "Handler" means: (a) Any person in his capacity as the

operator of a pool plant, (b) any person in his capacity as the operator of a non-pool plant from which fluid milk products are disposed of on a route(s) in the marketing area, or (c) any cooperative association with respect to milk of producers which it causes to be diverted to a nonpool plant for the account of such association.

§ 1013.12 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at a pool plant directly from producers, or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 1013.7.

§ 1013.13 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen or aerated cream) and any mixture in fluid form of cream and milk or skim milk (except ice cream, eggnog ice cream mixes, and sterilized products in hermetically sealed containers).

§ 1013.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products, except (1) such products approved by the appropriate health authority for distribution as Class I milk in the marketing area received from pool plants, or (2) producer milk; and

(b) Products designated as Class II milk pursuant to § 1013.41 (b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 1013.15 *Producer-handler.* "Producer-handler" means a person who operates, as his own personal enterprises, both a dairy farm and a milk processing or bottling plant at which plant each of the following conditions is met during the month:

(a) Milk is received from the dairy farm of such person but from no other dairy farm;

(b) Fluid milk products are disposed of on routes to retail or wholesale outlets in the marketing area; and

(c) The butterfat or skim milk disposed of in fluid milk products does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm of such person and from pool plants of other handlers in the form of fluid milk products.

§ 1013.16 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the dairy wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1013.20 *Designation.* The agency for the administration of this order shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1013.21 *Powers.* The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To receive, investigate and report to the Secretary complaints of violations;
- (c) To make rules and regulations to effectuate its terms and provisions; and
- (d) To recommend amendments to the Secretary.

§ 1013.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

- (a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1013.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this order, and, upon request by the Secretary, surrender the same to such person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1013.30 and 1013.31 or payments pursuant to §§ 1013.80, 1013.84, 1013.86, 1013.87 and 1013.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) Publicly announce and notify each handler in writing on or before: (1) The 5th day of each month the Class I milk price pursuant to § 1013.50 and the Class I butterfat differential pursuant to § 1013.52 (a), both for the current

month; and the Class II milk price pursuant to § 1013.51 and the Class II butterfat differential pursuant to § 1013.52 (b) both for the preceding month, and (2) the 9th day after the end of each month, the uniform price pursuant to § 1013.71, and the butterfat differentials to be paid pursuant to § 1013.81.

REPORTS, RECORDS AND FACILITIES

§ 1013.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his plants for such month as follows:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of fluid milk products on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section.

§ 1013.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator;

(1) On or before the 20th day after the end of the month for each of his pool plants, his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, (iii) the number of days on which milk was received from such producer, if less than a full calendar month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment together with the price paid and the amount and nature of any deductions; and

(2) Such other information with respect to the utilization of butterfat and skim milk as the market administrator may prescribe.

§ 1013.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all fluid milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all fluid milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1013.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specific books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1013.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat at pool plants which is required to be reported pursuant to § 1013.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1013.41 through 1013.46.

§ 1013.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1013.43, 1013.44 and 1013.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of fluid milk products except those classified pursuant to paragraph (b) (2) of this section, or (2) not specifically accounted for as Class II utilization;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any products other than fluid milk products, (2) contained in inventory of fluid milk products on hand at the end of the month, (3) accounted for as livestock feed, (4) in shrinkage allocated to receipts of producer milk pursuant to § 1013.42 (except milk diverted to a nonpool plant pursuant to § 1013.7) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively, and (5) in shrinkage of other source milk.

§ 1013.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in producer milk and in other source milk.

§ 1013.43 *Transfers.* Skim milk or butterfat disposed of from a pool plant shall be classified:

(a) As Class I milk if transferred in the form of fluid milk products to a

pool plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to § 1013.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk and beginning inventory of fluid milk products pursuant to § 1013.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers;

(b) As Class I milk if transferred to a producer-handler in the form of fluid milk products;

(c) As Class I milk if transferred or diverted in bulk form as milk, skim milk, or cream to a nonpool plant located in the marketing area or not more than 300 miles by the shortest highway distance as determined by the market administrator from the transferor plant unless:

(1) The handler claims Class II in his report submitted to the market administrator pursuant to § 1013.30.

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant; and

(d) As Class I milk if transferred in bulk form as milk, skim milk, or cream to a nonpool plant located more than 300 miles by the shortest highway distance as determined by the market administrator from the transferor plant, except that cream so transferred may be classified as Class II if notice is given to the market administrator at least 24 hours prior to shipment, each container is labelled by the transferor as "ungraded cream for manufacturing only", and such shipment is so invoiced.

§ 1013.44 *Responsibility of handlers and reclassification of milk.* (a) In establishing the classification of skim milk and butterfat as required in § 1013.41 the burden rests upon the handler who receives such skim milk or butterfat from producers to prove to the market administrator that such skim milk or butterfat should not be classified as Class I milk; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1013.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization submitted by each

handler and shall compute the pounds of butterfat and skim milk in each class for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1013.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 1013.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 1013.41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in each Class, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk other than that received from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk received in a form other than that specified in subparagraph (4) of this paragraph from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing order issued pursuant to the act;

(4) Subtract from the pounds of skim milk in each class the pounds of skim milk contained in fluid milk products received in packaged form which were classified and priced under another marketing order issued pursuant to the act and disposed of in the same form as received;

(5) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest priced utilization, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(6) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of fluid milk products, according to its classification as determined pursuant to § 1013.43 (a);

(7) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(8) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section; and

(c) Determine the weighted average butterfat content of the Class I and Class II milk allocated to producer milk.

MINIMUM PRICES

§ 1013.50 *Class I price.* Subject to the provisions of §§ 1013.52 and 1013.53, the price per hundredweight of milk of 3.5 percent butterfat content which is classified as Class I shall be 10 cents less than the Class I price for milk of 3.5 percent butterfat content as determined pursuant to § 935.51 (a) of the order, as amended, regulating the handling of milk in the Omaha-Lincoln-Council Bluffs marketing area (Order No. 35, Part 935 of this chapter).

§ 1013.51 *Class II price.* Subject to the provisions of § 1013.52, the price per hundredweight of milk of 3.5 percent butterfat content which is classified as Class II shall be equal to the Class II price for milk of 3.5 percent butterfat content, as determined pursuant to § 935.51 (b) of the order, as amended, regulating the handling of milk in the Omaha-Lincoln-Council Bluffs marketing area (Order No. 35, Part 935 of this chapter).

§ 1013.52 *Butterfat differentials to handlers.* If the weighted average butterfat content of the milk received from producers classified, respectively, in Class I milk or Class II milk for a handler is more or less than 3.5 percent, there shall be added to, or subtracted from, the respective class price computed pursuant to §§ 1013.50 and 1013.51 for each one-tenth of 1 percent that such weighted average butterfat content is above or below 3.5 percent, a butterfat differential computed as follows:

(a) *Class I Milk.* Add 2.1 cents to the butterfat differential computed pursuant to paragraph (b) of this section for the preceding month; and

(b) *Class II milk.* Multiply the Chicago butter price for the current month by 0.120 and round to the nearest one-tenth cent.

§ 1013.53 *Location adjustments to handlers.* For milk which is received from producers at a pool plant located more than 80 miles by shortest highway distance, as determined by the market administrator, from the City Hall in either Grand Island or North Platte, Nebraska, whichever is closer, and which is classified as Class I milk the prices computed pursuant to § 1013.50 shall be reduced by 12 cents if such plant is located more than 80 miles, but not more than 90 miles from such city hall and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 90 miles.

§ 1013.54 *Use of equivalent prices.* If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1013.60 *Producer-handlers.* Sections 1013.40 through 1013.46, 1013.50 through 1013.54, 1013.70, 1013.71, 1013.72,

and 1013.80 through 1013.93, shall not apply to a producer handler.

§ 1013.61 *Milk subject to other Federal orders.* Milk received at the plant of a handler at which the handling of milk is fully subject during the delivery period to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act and from which the disposition of Class I milk in the other Federal marketing area exceeds that in the Platte Valley marketing area shall be exempted for such delivery period from all provisions of this part except §§ 1013.31, 1013.32, and 1013.33.

§ 1013.62 *Other source milk in Class I.* In the case of pool plants which are permitted by the applicable health authorities to receive and process non-Grade A milk, non-Grade A skim milk and butterfat in other source milk shall be allocated to Class I up to the extent of verifiable actual disposition of non-Grade A skim milk and butterfat as Class I milk outside the marketing area in localities where Grade A milk is not required for Class I use.

DETERMINATION OF UNIFORM PRICES

§ 1013.70 *Computation of value of milk.* The value of milk received during each month by each handler at his pool plant(s) from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices specified in §§ 1013.50 and 1013.51, as adjusted pursuant to §§ 1013.52 and 1013.53, and adding any amounts computed pursuant to paragraphs (a) and (b) of this section.

(a) If the handler had overage of either skim milk or butterfat, an amount computed by multiplying the pounds of overage by the applicable class prices; and

(b) An amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by (1) the hundredweight of producer milk classified in Class II, less shrinkage, in the preceding month, or (2) the hundredweight of milk subtracted from Class I pursuant to § 1013.46 (a) (5) and the corresponding step of § 1013.46 (b), whichever is less.

§ 1013.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1013.70 for all handlers who filed the reports prescribed by § 1013.30 and who made the payments pursuant to §§ 1013.80 and 1013.84 for the preceding month.

(b) Subtract for each of the months of April, May and June, an amount equal to 8 percent of the Class I price multiplied by the total quantity of producer milk;

(c) Add during each of the months of September, October and November one-third of the total amount subtracted pursuant to paragraph (b) of this section;

(d) Add an amount equal to the total deductions made pursuant to § 1013.82;

(e) Subtract if the average butterfat content of the milk included in these computations is more than 3.5 percent or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1013.81 and multiplying the result by the total hundredweight of producer milk included in these computations;

(f) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(g) Divide the resulting sum by the total hundredweight of milk included in these computations; and

(h) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be known as the "uniform price" for milk received from producers.

§ 1013.72 *Notification of handlers.* On or before the 9th day of each month the market administrator shall notify each handler of:

(a) The quantity and value of his milk in each class computed pursuant to §§ 1013.46 and 1013.70 and the totals of such quantities and values;

(b) The uniform price computed pursuant to § 1013.71;

(c) The amount, if any, due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 1013.80 and 1013.84; and

(e) The amount to be paid by such handler pursuant to § 1013.88.

PAYMENTS

§ 1013.80 *Time and method of payment.* On or before the 12th day after the end of each month, each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To each producer for milk, for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price computed in accordance with § 1013.71, subject to the butterfat differential computed pursuant to § 1013.81, the location adjustment computed pursuant to § 1013.82, and to any proper deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1013.85, he may reduce such payments uniformly per hundredweight for all producers by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) To a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payment for its member pro-

ducers and wishes to exercise such authority, an amount equal to not less than the sum of the individual payments otherwise payable to such producers.

§ 1013.81 *Butterfat differential to producers.* In making payments pursuant to § 1013.80 the uniform prices shall be adjusted for each one-tenth of one percent of butterfat content in the milk of each producer above or below 3.5 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 1013.52, weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest tenth of a cent.

§ 1013.82 *Location adjustments to producers.* In making payments pursuant to § 1013.80, for milk received from producers, the uniform price per hundredweight for milk received at plants located more than 80 miles, but not more than 90 miles, by shortest highway distance as determined by the market administrator, from the City Hall at Grand Island or at North Platte, Nebraska, whichever is closer, there shall be deducted 12 cents plus 1.5 cents addition for each 10 miles or fraction thereof distance beyond 90 miles.

§ 1013.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1013.84 and 1013.86 and out of which he shall make all payments to handlers pursuant to §§ 1013.85 and 1013.88: *Provided*, That the market administrator shall offset any payment due any handler against payments due from such handler.

§ 1013.84 *Payments to the producer-settlement fund.* On or before the 10th day after the end of each month each handler who operates a pool plant shall pay to the market administrator for payment to producers through the producer-settlement fund the amount, if any, by which the total value computed for him pursuant to § 1013.70 for such month is greater than the sum required to be paid by such handler pursuant to § 1013.80.

§ 1013.85 *Payments out of the producer-settlement fund.* On or before the 12th day after the end of each month, the market administrator shall pay to each handler, for payment to producers, the amount, if any, by which the sum required to be paid by such handler pursuant to § 1013.80 is more than the total value computed for him pursuant to § 1013.70: *Provided*, That if the balance in the producer-settlement fund is insufficient to make payments to all handlers pursuant to this section, the market administrator shall reduce such payments by a uniform amount per hundredweight of milk and shall complete such payments as soon as the necessary funds become available.

§ 1013.86 *Adjustment of accounts.* Whenever verification by the market administrator of reports or payments of

any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 1013.84 and 1013.85, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make such payment to such handler.

§ 1013.87 *Adjustment of errors in payments to producers.* Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payment of less than is required by § 1013.80 the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

§ 1013.88 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 12th day after the end of the month for such month 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight, as the Secretary may prescribe with respect to all (a) receipts of producer milk including such handler's own production, (b) other source milk at a pool plant which is classified as Class I milk, and (c) Class I disposed of during the month from nonpool plants on routes in the marketing area.

§ 1013.89 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the names of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this order to be made available, the market administrator may, within the two-year period

provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler within the applicable period of time, files pursuant to section (1) (a) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1013.90 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1013.91.

§ 1013.91 *Suspension or termination.* The Secretary may suspend or terminate this part, or any provision of this part, whenever he finds this part, or any provision of this part, obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

§ 1013.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations under this part, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1013.93 *Liquidation.* Upon the suspension or termination of the provisions of this part except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market

administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1013.94 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1013.95 *Separability of provisions.* If any provision of this part or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this part to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 57-2239; Filed, Mar. 22, 1957; 8:47 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 688, 702, 705, 707, 708, 709]

[Admin. Order 476, Amended]

BUTTON, JEWELRY, AND LAPIDARY WORK INDUSTRY; ARTIFICIAL FLOWER, DECORATION, AND PARTY FAVOR INDUSTRY; STRAW, HAIR, AND RELATED PRODUCTS INDUSTRY

TIME AND PLACE OF EACH COMMITTEE HEARING

On March 7, 1957, Administrative Order No. 476 was published in the FEDERAL REGISTER. By this order the Secretary of Labor, appointed, convened, and noticed the hearings of Industry Committee No. 29-A for the button, jewelry, and lapidary work industry in Puerto Rico, Industry Committee No. 29-B for the artificial flower, decoration, and party favor industry in Puerto Rico, and Industry Committee No. 29-C for the straw, hair, and related products industry in Puerto Rico.

Pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the ninth and tenth paragraphs of Administrative Order No. 476, noticing the time and place of each committee hearing, are hereby amended to read as follows:

Industry Committee No. 29-B shall commence its hearing on April 8, 1957, at 2:00 p. m. in the offices of the Wage and Hour Division, United States Department of Labor, New York Department Store Building, Fortaleza and San Jose Streets, San Juan, Puerto Rico. Consecutively, at the same place, after the hearing of Industry Committee No. 29-B, Industry Committees Nos. 29-C and 29-A shall hold their hearings in that order.

Each committee will meet at the same place before its hearing to make its in-

vestigation and appropriate decisions concerning its hearing. Industry Committee No. 29-B will meet at 10:00 a. m. on April 8, 1957, and Industry Committees Nos. 29-C and 29-A will meet at an hour to be designated by the committee chairman.

Signed at Washington, D. C., this 19th day of March 1957.

JAMES T. O'CONNELL,
Acting Secretary of Labor.

[F. R. Doc. 57-2252; Filed, Mar. 22, 1957;
8:50 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 230]

DEFINITION FOR PURPOSES OF SECTION 5 OF
THE ACT OF "SALE," "OFFER TO SELL,"
AND "OFFER FOR SALE"

NOTICE OF DEFERRAL OF ACTION

The Securities and Exchange Commission today announced that it does not presently contemplate adopting the revision of § 230.133 (Rule 133) in the form announced in Release No. 3698, pending further study of the problem. This announcement is made so as to remove any

uncertainty that may exist as to contemplated Commission action with respect to presently proposed or pending mergers, consolidations, reclassifications of securities and transfers of assets.

Notice of a proposed revision was issued on October 2, 1956 (Securities Act Release No. 3698), and a public hearing was held on January 17, 1957 (Securities Act Release No. 3728). Under the proposal the terms "offer," "offer to sell" and "offer for sale" would include the solicitation of the vote and consent of stockholders of the corporation in favor of mergers, consolidations, reclassifications of securities and transfers of assets between corporations.

The Commission intends to continue actively its study of Rule 133. Such study will encompass possible revision so as to provide for more adequate disclosure to public stockholders who are required to approve exchanges of securities in transactions contemplated by the rule, as well as misuse of the rule in connection with illegal distributions to the investing public of securities acquired through the medium of such transactions. The Commission believes that in mergers, consolidations, transfers of assets and reclassifications of securities of the type which substantially affect the right of security holders, such security holders are

entitled to equivalent protection as that afforded by the registration provisions of the Securities Act of 1933. The Commission further intends to consider the possibility of submission to Congress of recommendations for legislation to deal more specifically with the problems presented by mergers, consolidations and similar transactions.

Pending completion of further study and consideration of means of achieving greater investor protection, the Commission will treat on a case-by-case basis those mergers, consolidations, reclassifications of securities and transfers of assets which appear to exceed the limited area which was intended to be covered under Rule 133.

Any further modification of Rule 133 by the Commission will be undertaken only after ample opportunity for further public comment thereon.

The Commission is inviting the members of the Bar and other interested groups to furnish their further views on the problems posed by Rule 133.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

MARCH 15, 1957.

[F. R. Doc. 57-2231; Filed, Mar. 22, 1957;
8:46 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ORGANIZATION AND FUNCTIONS

Correction

In Federal Register Document 56-10503, published at page 10418 of the issue for December 28, 1956, section 1113.637 should read as follows:

1113.637 *Reorganization and Dividend Branch.* The Reorganization and Dividend Branch issues rulings with respect to the determination of the taxable status of exchanges and distributions in connection with corporate reorganizations. The Branch also makes determinations with respect to the taxable status of ordinary, liquidating, and stock dividends. If determinations are made in taxability of dividend cases which affect taxpayers in more than one district it is the responsibility of the Branch to arrange for the furnishing of the advice to such districts.

Office of the Secretary

[Treasury Dept. Order 177-13]

CHIEF DISBURSING OFFICER

DELEGATION OF FUNCTION OF ISSUING CERTAIN CHECKS

By virtue of the authority vested in the Secretary of the Treasury by Re-

organization Plan No. 26 of 1950 and consistent with the provisions of Executive Order No. 6166, dated June 10, 1933, as amended, there is hereby transferred to the Chief Disbursing Officer the function of issuing checks in payment of interest on public debt obligations of the United States. Such checks shall be issued over the title of the Secretary of the Treasury by the Chief Disbursing Officer or such Regional Disbursing Officer or Officers as he may designate.

Such personnel, equipment and records as are determined by the Commissioner of the Public Debt and the Chief Disbursing Officer to be necessary to perform the foregoing function shall be made available by the Bureau of the Public Debt to the Chief Disbursing Officer.

Funds heretofore or hereafter appropriated to the Bureau of the Public Debt covering this function shall, with the approval of the Secretary of the Treasury, be transferred to the appropriation of the Division of Disbursement.

This order shall be effective May 1, 1957: *Provided*, That its operation may be postponed in whole or in part by the Fiscal Assistant Secretary until not later than September 1, 1957.

Dated: March 19, 1957.

[SEAL]

W. RANDOLPH BURGESS,
Acting Secretary of the Treasury.

[F. R. Doc. 57-2244; Filed, Mar. 22, 1957;
8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

MARCH 15, 1957.

Pursuant to authority delegated to me by Order No. 541, Sec. 2.5 of the Director, Bureau of Land Management, approved April 21, 1954 (19 F. R. 2473), the following described lands, reconveyed to the United States in exchanges of land made under the provisions of section 8 of the act of June 28, 1934 (48 Stat. 1269), as amended, are hereby restored to disposition under the applicable public land laws as hereinafter indicated:

NEW MEXICO PRINCIPAL MERIDIAN

T. 45 N., R. 13 W.,

Sec. 27, Part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ described as follows:

Beginning at a point on the south right-of-way line of State Highway No. 145 whence the north quarter corner of said section 27 bears N. 0° 40' W., 30 feet and S. 89° 52' W., 232.5 feet; thence N. 89° 52' E., 100 feet along the south right-of-way line of State Highway 145; thence S. 0° 40' E., 300 feet; thence S. 89° 52' W., 100 feet; thence N. 0° 40' W., 300 feet to the point of beginning, containing 0.688 acres, more or less, with frontage of 100 feet on State Highway 145, 300 feet on Hazel Street and 100 feet on Naturita Street.

SIXTH PRINCIPAL MERIDIAN

T. 7 N., R. 91 W.,

Sec. 35, The south one acre in a tract of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ described as follows:

Beginning at a point on the north right-of-way line of U. S. Highway No. 40, which is west 24 feet and north 140 feet from the southeast corner of Sec. 35, in T. 7 N., R. 91 W., of the 6th P. M., thence west along the north right-of-way line of said Highway No. 40, a distance of 131 feet; thence north 332.52 feet; thence east 131 feet; thence south 332.52 feet; more or less to the point of beginning, containing one acre.

The areas described total 1.688 acres of public lands.

This revocation is made in furtherance of land exchanges under section 8 of the act of June 28, 1934, as amended by section 3 of the act of June 26, 1936 (48 Stat. 1272; 49 Stat. 1976; 43 U. S. C. 315g) by which the reconveyed lands will benefit a Federal Land Program. This restoration is, therefore, not subject to the provisions contained in the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended, granting preference rights to veterans of World War II and others.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P. O. Box 1018, Denver 1, Colorado.

MAX CAPLAN,
State Supervisor.

[F. R. Doc. 57-2242; Filed, Mar. 22, 1957;
8:48 a. m.]

Bureau of Reclamation

MINIDOKA PROJECT, IDAHO

FIRST FORM RECLAMATION WITHDRAWAL

JANUARY 25, 1957.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954, I hereby withdraw the following-described lands from public entry, under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388):

BOISE MERIDIAN, IDAHO

T. 2 N., R. 43 E.,
Sec. 32, Lots 2 and 3.
T. 3 N., R. 43 E.,
Sec. 31, Lot 2.

The above areas aggregate 71.42 acres.

E. G. NIELSEN,
Assistant Commissioner.

[74428]

MARCH 19, 1957.

I concur. The records of the Bureau of Land Management will be noted accordingly.

The lands shall be administered by the Bureau of Land Management until such time as they are needed for reclamation purposes.

EARL J. THOMAS,
Acting Director,
Bureau of Land Management.

Notice for Filing Objections to Order
Withdrawing Public Lands for the
Minidoka Project, Idaho

JANUARY 25, 1957.

Notice is hereby given that for a period of 30 days from the date of publication of this notice, persons having cause to object to the terms of the above order withdrawing certain public lands in the State of Idaho, for use in connection with the proposed development of the Burns Creek Reservoir site, Minidoka Project, may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C.

In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

E. G. NIELSEN,
Assistant Commissioner.

[F. R. Doc. 57-2223; Filed, Mar. 22, 1957;
8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8130]

CURREY AIR TRANSPORT ENFORCEMENT
PROCEEDING

NOTICE OF HEARING

Notice is hereby given pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding is assigned to be held on April 9, 1957, at 10:00 a. m., e. s. t., in Room E-224, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Herbert K. Bryan.

Dated at Washington, D. C., March 20, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-2255; Filed, Mar. 22, 1957;
8:50 a. m.]

[Docket No. 7226]

AEROVIAS NACIONALES DE COLOMBIA, S. A.

NOTICE OF HEARING

In the matter of the application of Aerovias Nacionales De Colombia, S. A., for a foreign air carrier permit authorizing service to San Juan on a route between Colombia and Europe via other intermediate points.

Notice is hereby given pursuant to the provisions of the Civil Aeronautics Act

of 1938, as amended, that a hearing in the above-entitled proceeding is assigned to be held on March 27, 1957, at 10:00 a. m., e. s. t., in Room 4827, Commerce Building 14th Street and Constitution Avenue NW., Washington, D. C., before Examiner Ferdinand D. Moran.

Dated at Washington, D. C., March 19, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-2256; Filed, Mar. 22, 1957;
8:50 a. m.]

[Docket No. 8611]

DESIGNATION OF DALLAS-MEXICO CITY
CARRIERNOTICE OF POSTPONEMENT OF ORAL
ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled matter now assigned for April 16 is postponed to April 18, 1957. This argument will be held at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, Constitution Avenue, between 14th and 15th Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., March 20, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-2257; Filed, Mar. 22, 1957;
8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-12229]

MAGNOLIA PETROLEUM CO.

ORDER SUSPENDING PROPOSED CHANGE IN
RATES

MARCH 19, 1957.

Magnolia Petroleum Company (Magnolia) on February 19, 1957, tendered for filing a proposed change in its presently effective rate schedule for a sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: Natural Gas Pipeline Company of America.

Rate schedule designation: Supplement No. 7 to Magnolia's FPC Gas Rate Schedule No. 63.

Effective date: ¹ March 21, 1957.

In support of the proposed increased rate, Magnolia states that the contract was entered into in good faith as the result of arms length negotiations and that the long-term contract resulted with the installment price schedule therein. Magnolia also states that be-

¹ The stated effective date is the first day after expiration of the required thirty days notice, or the effective date proposed by Magnolia, if later.

cause of the competitive nature of the producing segment of the natural gas industry to deny the increased price, which was based upon the "supply and demand formula", would be confiscatory of the seller's property. Magnolia further states that the increasing costs of exploration, production, and processing of natural gas with depletion of reserves, requires additional revenue.

The increased rate and charge proposed in the aforesaid filing has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed change in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until August 21, 1957, and until such further time as it is made effective in the manner presented by the Natural Gas Act.

(B) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of, or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.¹

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2245; Filed, Mar. 22, 1957;
8:49 a. m.]

[Docket No. G-12231]

R. H. GOODRICH

ORDER SUSPENDING PROPOSED CHANGE IN
RATES

MARCH 19, 1957.

R. H. Goodrich (Goodrich), on February 21, 1957, tendered for filing a proposed change in the presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge,

is contained in the following designated filing:

Description: Notice of change, dated February 18, 1957.

Purchaser: United Gas Pipe Line Company.
Rate schedule designation: Supplement No. 3 to Goodrich's FPC Gas Rate Schedule No. 1.

Effective Date:¹ March 24, 1957.

In support of the increase, Goodrich cites the contract pricing arrangement and states that the contract resulted from good faith arm's length bargaining under competitive conditions for an average rate of 22.36 cents per Mcf to be delivered over the 18-year term, but the average rate was broken down into increments at specified intervals and is consequently not a rate increase in any real sense. Goodrich also states that his proposed 21.4-cent rate is reasonable as evidenced by higher initial rates paid in the area under other recently negotiated long term contracts which he cites.

The proposed increased rate and charge designated above has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge, and, pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 24, 1957, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.²

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2246; Filed, Mar. 22, 1957;
8:49 a. m.]

¹ The stated effective date is the first day after the expiration of the required thirty days' notice or the effective date proposed by Goodrich, if later.

² Commissioner Digby dissenting.

[Project No. 925]

CITY OF OTTUMWA, IOWA

NOTICE OF APPLICATION FOR AMENDMENT OF
LICENSE

MARCH 19, 1957.

Public notice is hereby given that City of Ottumwa, Iowa, as part of a river improvement program whereby the Des Moines River channel will be straightened and new flood protection levees constructed through the City of Ottumwa, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for amendment of the license for water-power Project No. 925, located on the Des Moines River in Wapello County, Iowa, to include enlargement of the power pool and extension of the impoundment gate system by the removal of three existing Tainter gates at the City's hydroelectric power plant, construction of new gate supports, and the installation of seven new Tainter gates and two bascule type gates, and channel excavation.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is April 18, 1957. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2247; Filed, Mar. 22, 1957;
8:49 a. m.]

[Project No. 1929]

B. TIMAEUS

NOTICE OF APPLICATION FOR MINOR PART
LICENSE

MARCH, 19, 1957.

Public notice is hereby given that B. Timaeus of Pistol River, Oregon, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for minor part license for constructed Project No. 1929 located on Little Boulder Creek in Jackson County, Oregon, affecting lands of the United States. The project consists of a rubble masonry dam about 9 feet high with a crest length of about 120 feet; an eight inch pipeline about 2,663 feet long; a frame powerhouse containing a 36-inch Pelton water wheel having a capacity of 386 horsepower connected to a generator with nameplate capacity of 187 kilowatts; an underground transmission line paralleling the pipe line and a 97-foot tailrace from the powerhouse to a discharge point into a small unnamed creek.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is April

¹ Commissioner Digby dissenting.

22, 1957. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2248; Filed, Mar. 22, 1957;
8:49 a. m.]

[Docket No. G-10159]

VAUGHNEY AND VAUGHNEY¹

NOTICE OF SEVERANCE

MARCH 19, 1957.

Take notice that the application in the matter of Vaughney and Vaughney (Applicant), in Docket No. G-10159 which has been heretofore consolidated with various other applications in a proceeding entitled: In the Matters of United States Smelting, Refining & Mining Company, et al., Docket Nos. G-9833, et al. and scheduled to be heard therewith at 9:30 a. m., e. s. t., on Thursday, March 28, 1957, is hereby severed from said consolidated proceeding as the result of a request by Applicant filed March 6, 1957, and continued to a date to be set hereafter by further notice.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2249; Filed, Mar. 22, 1957;
8:49 a. m.]

[Docket No. G-10551 etc.]

ARGO OIL CORP. ET AL.

NOTICE OF SEVERANCE AND CONTINUANCE

MARCH 19, 1957.

In the matters of Argo Oil Corporation et al., Docket Nos. G-10551, et al., Humble Oil & Refining Company, Docket Nos. G-10636, G-10829.

Notice is hereby given that the applications of Humble Oil & Refining Company in Docket Nos. G-10636 and G-10829 in the above consolidated proceeding and scheduled for a hearing on April 9, 1957 at 9:30 a. m. is hereby severed therefrom and continued for a hearing at a subsequent date to be set by further notice.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2250; Filed, Mar. 22, 1957;
8:49 a. m.]

[Docket No. G-3033 etc.]

NEW ULM CORP. AND TEXAS GAS CORP.

NOTICE OF APPLICATIONS AND DATE OF HEARING

MARCH 18, 1957.

In the matters of New Ulm Corporation, Docket Nos. G-3033 and G-9526; Texas Gas Corporation, Docket No. G-9527.

Take notice that New Ulm Corporation, a Texas corporation with its prin-

cipal place of business in Houston, Texas, filed on September 24, 1954, an application in Docket No. G-3033, for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, for authority to continue the sale of natural gas in interstate commerce to Tennessee Gas Transmission Company (Tennessee) for resale from production in the New Ulm Field Area, Austin County, Texas, all as more fully described in the application.

On October 21, 1955, New Ulm Corporation filed an application in Docket No. G-9526, pursuant to section 7 (b) of the Natural Gas Act, for permission and approval to abandon the service to Tennessee described in the application in Docket No. G-3033.

Texas Gas Corporation, a Texas corporation with its principal place of business in Houston, Texas, filed on October 21, 1955, an application in Docket No. G-9527, pursuant to section 7 (c) of the Natural Gas Act, for a certificate of public convenience and necessity, authorizing the sale of natural gas to Tennessee, proposed to be abandoned by New Ulm Corporation in its application in Docket No. G-9526.

The applications in Docket Nos. G-9526 and G-9527 state that New Ulm Corporation's assets and properties will be sold to Texas Gas Corporation effective November 1, 1955, and said corporation will continue the sale of natural gas to Tennessee pursuant to the existing gas sales contract between New Ulm Corporation and Tennessee.

The respective applications herein are on file with the Commission and open to public inspection.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 30, 1957, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 10, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2224; Filed, Mar. 22, 1957;
8:45 a. m.]

[Docket No. G-4005 etc.]

C. P. BURTON AND BURTON-PRICE INDUSTRIES, INC.

NOTICE OF APPLICATION AND DATE OF HEARING

MARCH 18, 1957.

In the matters of C. P. Burton, Docket Nos. G-4005, G-4006;¹ Burton-Price Industries, Inc., Operator;² Docket No. G-9709.

Take notice that Burton-Price Industries, Inc., (Burton-Price), Operator, a Delaware corporation with its principal place of business in Dallas, Texas filed on November 28, 1955, an application for a certificate of public convenience and necessity, authorizing Burton-Price to render service as hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in the application in Docket No. G-9709.

Burton-Price seeks authority to sell natural gas in interstate commerce to Lone Star Gas Company for resale, from five leases designated as Roberts, Damron, Pavlu No. 1, Pavlu "A" and Woods leases, all located in the East Brady Field, Garvin County, Oklahoma.

C. P. Burton, Operator, filed applications in Docket Nos. G-4005 and G-4006 seeking authorization pursuant to section 7 (c) of the Natural Gas Act to continue the sale of natural gas in interstate commerce to Lone Star Gas Company for resale from production from the Roberts and Damron leases, respectively.

Price-Burton Industries, Inc., executed a contract with Lone Star Gas Company covering the Roberts and Damron leases as well as the other three leases heretofore identified from which it seeks authorization to sell natural gas in Docket No. G-9709 and therefore proposes to supersede the contracts covered by the applications in Docket Nos. G-4005 and G-4006 as such contracts relate to service from the Roberts and Damron leases. It appears that Price-Burton Industries, Inc., and C. P. Burton are owners of working interest in the two leases and merely a change in designation of operator is involved.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 30, 1957, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission,

¹ C. P. Burton was granted a certificate of public convenience and necessity in Docket No. G-4006 by the Commission's order issued October 5, 1955 in Docket No. G-7232, et al.

² The following owners of working interest are signatory parties to the gas sales contract: C. P. Burton, Mul-Berrig Oil Company, R. C. Jones & Company, Inc., Edwin L. Cox, Jake L. Hamon, Burton-Price Industries, Inc., Jordan Petroleum Company, Ray Hoffman, Jr., Sally R. Mortson, Hunter S. Mortson, Jr., R. D. Jones, Glen S. Norville, Glen C. Norville, and Richard S. Norville.

¹ Proceeding entitled: In the Matters of United States Smelting, Refining & Mining Company, et al., Docket Nos. G-9833, et al.

441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 10, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2225; Filed, Mar. 22, 1957;
8:45 a. m.]

[Docket Nos. G-8992, G-10116]

STATES OIL CO. ET AL.

NOTICE OF APPLICATIONS AND DATE OF
HEARING

MARCH 18, 1957.

By order issued January 4, 1956, in Docket No. G-8992, States Oil Company et al. were granted certificate authorization to render service to United Gas Pipe Line Company (United) from approximately 288 acres in S 31, T 18 N., R 15 W, in the Greenwood-Waskom Field, Caddo Parish, Louisiana, under contract dated September 23, 1953, as amended April 11, 1955. The original application in Docket No. G-8992 also covered the proposed service from approximately 30 acres in S 6, T 17 N, R 15 W (S. L. Herold Unit No. 1). The order issuing certificate stated that such certificate shall be limited to the sale of natural gas produced from S 31, T 18 N, R 15 W, Caddo Parish, Louisiana. No Commission action was taken with respect to granting authorization to render service from the Section 6 acreage.

Section 31, for which authorization was granted in Docket No. G-8992, represented new acreage. However, the gas from section 6 at the time of filing the certificate application in Docket No. G-8992 was being sold to Arkansas Louisiana Gas Company (Arkansas Louisiana) by Plymouth Oil Company, Operator, pursuant to Plymouth's contract with Arkansas Louisiana to which States Oil Company was not a party.

On March 19, 1956, States Oil Company et al. filed an application in Docket No. G-10116 to abandon service to Arkansas Louisiana from section 6 heretofore mentioned. On October 26, 1956, Arkansas Louisiana filed a statement indicating that it does not oppose the proposed abandonment.

States Oil Company et al. in Docket No. G-10116 has requested permission to abandon service to Arkansas Louisi-

ana, pursuant to section 7 (b) of the act, as hereinbefore described, and to initiate service to United in Docket No. G-8992, from the aforementioned section 6, pursuant to section 7 (c) of the act, all as more fully represented in its filings which are on file with the Commission and open for public inspection.

The gas which is the subject in this proceeding will be transported in interstate commerce for resale.

These related matters should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on April 19, 1957, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street, NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 8, 1957. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicant to appear or be represented at the hearing.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2226; Filed, Mar. 22, 1957;
8:45 a. m.]

[Docket No. G-8771 etc.]

CITY OF CLINTON, KY., ET AL.

ORDER DENYING APPLICATION FOR RECONSIDERATION AND FIXING DATE FOR HEARING

MARCH 18, 1957.

In the matters of City of Clinton, Kentucky, Docket No. G-8771; City of La Center, Kentucky, Docket No. G-8888; City of Bardwell, Kentucky, Docket No. G-8939; City of Wickliffe, Kentucky, Docket No. G-8962.

In its order issued January 31, 1957, under section 7 (a) of the Natural Gas Act, the Commission, while ordering Panhandle Eastern Pipe Line Company and Trunkline Gas Company to serve certain other customers, did not grant the applications of the Cities of Clinton, La Center, Bardwell and Wickliffe, Kentucky, for service from Trunkline, pointing out that these cities had not demonstrated the physical adequacy and economic feasibility of their systems be-

cause inherent in the computations presented by them was the use of the too-high design-day temperature of 28.8° Fahrenheit. The Commission, however, reopened the record for the purpose of permitting the four cities to present further evidence in support of the economic and financial feasibility of their respective projects.

On February 21, 1957, the cities filed their "Petition for Reconsideration or Rehearing" in which they allege that on the basis of facts already in the record with additional quantities of gas their redesigned projects will be able to meet their third-year system peaks at a design-day temperature of 20° Fahrenheit and will have sufficient revenues to cover their debt service. Therefore, they request that the Commission reconsider its findings and issue the requested allocation order on the basis of the present record. On December 12, 1956, each of the cities had submitted as a supplement to its application, in response to the presiding examiner's decision issued November 23, 1956, an additional engineering study intended to show the ability of its project to meet a demand based on a design-day temperature of 15° Fahrenheit.

The difficulty with the request of the cities for an allocation of gas on the present record is that they have not clearly defined the projects which they propose to meet a design-day temperature of less than 28.8° Fahrenheit so that the Commission has no definite proposal before it on which to act. Even in their Petition for Reconsideration or Rehearing the cities are not explicit with respect to their proposals. They indicate that they have redesigned the facilities to meet criteria adopted by the Commission (see our orders in Panhandle Eastern Pipe Line Company et al., docket Nos. G-1705 et al., on May 18, 1956, 15 F. P. C. 1421 and June 30, 1956, 15 F. P. C. 46, 70), but they also indicate that the redesigned systems may not be the ones they will build. Therefore, in view of the ambiguous history of these proposals, we are unable to grant an allocation of gas to these applicants on the present record. What is necessary are definite proposals as to the projects to be built and a record in support thereof.

Furthermore, Trunkline has taken an active part in the previous proceedings and has opposed the applications of these cities. Presumably Trunkline will be interested in any new proposals put forward particularly if they require additional quantities of gas and so should have opportunity for cross-examination and for the presentation of evidence. Accordingly we shall set a hearing at which the cities can make definite proposals for service by Trunkline and present evidence in support thereof as contemplated by our order of January 31, 1957.

The Commission further finds: The petition filed February 21, 1957, by the Cities of Clinton, La Center, Bardwell and Wickliffe, Kentucky, and the present record in the above-entitled proceeding do not provide a sufficient basis for reconsidering or modifying the order issued January 31, 1957.

The Commission orders:

(A) The aforesaid petition filed February 21, 1957, with respect to the Commission's order issued January 31, 1957, by the Cities of Clinton, La Center, Bardwell and Wickliffe, Kentucky, is hereby denied insofar as it requests reconsideration on the basis of the present record.

(B) A further public hearing shall be held May 28, 1957, at 10:00 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., at which the Cities of Clinton, La Center, Bardwell, and Wickliffe, Kentucky, shall have opportunity to present proposals for the supply of natural gas to them by Trunkline and to present further evidence in support of the economic and financial feasibility of their respective projects.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2227; Filed, Mar. 22, 1957;
8:45 a. m.]

[Docket No. G-12230]

E. L. GREEN, JR.

ORDER SUSPENDING PROPOSED CHANGE IN RATES

MARCH 15, 1957.

E. L. Green, Jr., (Green), on February 12, 1957,¹ tendered for filing a proposed change in the presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing, which is proposed to become effective on the date shown:

Description: Notice of change, dated February 7, 1957.

Purchaser: Phillips Petroleum Company.
Rate schedule designation: Supplement No. 2 to Green's FPC Gas Rate Schedule No. 1.
Effective date: March 16, 1957.

In support of the rate increase, Green states that the proposed increase results from the contractual provisions arrived at by arm's length bargaining.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general

rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge, and, pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until August 16, 1957, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplement hereby suspended, nor the rate Schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.²

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57-2228; Filed, Mar. 22, 1957;
8:45 a. m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

[BDSA Notice 1, as Amended March 21, 1957*]

SCARCE AND CRITICAL MATERIALS AUTHORIZED FOR GENERAL DISTRIBUTION IN THE CIVILIAN MARKET

Pursuant to section 101 (b) of the Defense Production Act of 1950, as amended section 201 of Executive Order 10480 dated August 14, 1953, as amended, paragraph 1 of Defense Mobilization Order No. 1-7 dated August 14, 1953, as amended, and section 3 of Department of Commerce Order 152 dated October 1, 1953, as amended, I hereby authorize the control of the general distribution in the civilian market of the materials listed in Schedule A below and find (1) that they are scarce and critical materials essential to the national defense, and (2) that the requirements of the national defense for such materials cannot otherwise be met without creating a significant dislocation of the normal distribution of such materials in the civilian market to such a degree as to create appreciable hardship.

This amended notice shall take effect March 21, 1957.

BUSINESS AND DEFENSE
SERVICES ADMINISTRATION,
H. B. MCCOY,
Administrator.

Approved:

GORDON GRAY,
Director of the Office
of Defense Mobilization.

SCHEDULE A

Titanium sponge.
Titanium metal (ingot and mill products).
Argon.

[F. R. Doc. 57-2310; Filed, Mar. 21, 1957;
5:01 p. m.]

* Commissioner Digby dissenting.

² See 18 F. R. 7329.

Maritime Administration

BLOOMFIELD STEAMSHIP CO.

NOTICE OF APPLICATION

Notice is hereby given of the application of Bloomfield Steamship Company for written permission of the Maritime Administrator under section 805 (a) of the Merchant Marine Act, 1936, 46 U. S. C. 1223, to permit operation of its owned vessel SS. "Mary Adams" by the charterer of said vessel, States Marine Corporation, on a voyage commencing on or about April 7, 1957, carrying lumber from United States North Pacific ports to United States Atlantic ports, north of Cape Hatteras.

Any person, firm, or corporation having an interest in such application and desiring a hearing on issues pertinent to section 805 (a) should notify the Secretary, Maritime Administration, on or before April 1, 1957, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Administration.

If no request for hearing and petition for leave to intervene is received within the specified time, the application will be processed without a hearing.

Dated: March 22, 1957.

By order of the Acting Maritime Administrator.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 57-2311; Filed, Mar. 22, 1957;
10:15 a. m.]

OFFICE OF DEFENSE MOBILIZATION

[Expansion Goal 224, Revision 1]

PRODUCTION FACILITIES FOR MILITARY AND ATOMIC ENERGY PROCUREMENT

1. Expansion Goal No. 224, Production Facilities for Military and Atomic Energy Procurement is revised to apply to facilities which will produce items that are to be procured for support of Department of Defense and Atomic Energy Commission programs.

2. In all cases, the certification of applications under this goal will be limited to those facilities expansions determined to be necessary to support the Department of Defense or the Atomic Energy Commission programs essential to the national defense, such as military production, research and development, or service programs, for which there is not sufficient capacity to meet current or currently foreseeable requirements. Certifications will be further limited to apply only to those end items, and special components or special materials peculiar thereto, for which there is no current or currently foreseeable general industrial use. Applications will not be certified under this goal where general commercial and industrial shortages, either current, currently foreseeable or anticipated are predominant and defense requirements constitute only a minor part of such shortages.

3. In all cases, certification under Expansion Goal No. 224 will be considered only upon a recommendation for ap-

¹ The original filing was made February 12, 1957, with a proposed effective date of March 16, 1957; but the original filing was deficient and not completed until February 20, 1957.

² The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by Green, if later.

proval from the Department of Defense or the Atomic Energy Commission, within the above limitations, and concurrence by the appropriate delegate agency.

Dated: March 21, 1957.

GORDON GRAY,
Director.

[F. R. Doc. 57-2286; Filed, Mar. 21, 1957;
3:20 p. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D-2029]

WHITE SAGE URANIUM CORP.

ORDER TEMPORARILY SUSPENDING EXEMPTION,
STATEMENT OF REASONS THEREFOR, AND
NOTICE OF OPPORTUNITY FOR HEARING

MARCH 18, 1957.

I. White Sage Uranium Corporation, a Utah corporation, 547 East 21st South Street, Salt Lake City, Utah, filed with the Commission on February 13, 1956 a notification on Form 1-A and offering circular, relating to an offering of 15,000,000 shares of 1 cent par value common stock at 1 cent per share for an aggregate of \$150,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable grounds to believe:

A. That the terms and conditions of Regulation A have not been complied with in the following respects:

1. The outside front cover page of the prospectus does not contain the tabulation required by Rule 219 (c) (4); and
2. The financial statements appearing in the offering circular:

a. Do not comply with the requirements of Rule 219 (c) (6) (A) and
b. Do not contain the information required by Rule 219 (c) (6) (B).

B. That the notification and offering circular contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, in the following respects:

1. Failure to state that the company's authorization to sell shares in Utah had been suspended by the Utah State Securities Commission;

2. Inclusion of contradictory statements in the notification and offering circular, respectively, concerning the consideration for issuance of the shares outstanding; and

3. Inclusion of maps in the offering circular reflecting ownership of 80 mining claims in excess of those claimed elsewhere in the offering circular to be owned by the company.

C. That use of said offering circular in connection with the offering of the company's securities would operate as a fraud and deceit upon the purchasers of said securities.

III. It is ordered, Pursuant to Rule 223 (a) of the general rules and regulations under the Securities Act of 1933,

as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing; that, within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place of said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 57-2232; Filed, Mar. 22, 1957;
8:46 a. m.]

[File No. 70-3564]

NEW ORLEANS PUBLIC SERVICE INC.

ORDER APPROVING ISSUE AND SALE AT COMPETITIVE BIDDING OF PRINCIPAL AMOUNT OF FIRST MORTGAGE BONDS

MARCH 19, 1957.

New Orleans Public Service Inc. ("Company"), a public-utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application and amendments thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 and Rule U-50 thereunder with respect to the following proposed transaction:

The Company proposes to issue and sell at competitive bidding, pursuant to Rule U-50, \$6,000,000 principal amount of First Mortgage Bonds -- percent Series due April 1, 1987. Public invitations for bids will be issued on or about March 21, 1957. Each bid shall specify the coupon rate (which shall be a multiple of $\frac{1}{8}$ of 1 percent) to be borne by the Bonds, and the price (exclusive of accrued interest) to be paid to the Company for the Bonds, which price shall be not less than the principal amount of the Bonds and not more than 102 $\frac{1}{4}$ percent thereof.

The Bonds will be issued under the Company's Mortgage and Deed of Trust dated as of July 1, 1944, to the Chase Manhattan Bank and Arthur F. Henning, successor Trustees, as heretofore supplemented and as it will be supplemented by a Fourth Supplemental Indenture to be dated April 1, 1957.

The issuance of the Bonds has been authorized by the City of New Orleans, the regulatory agency of the State in which the Company is organized and doing business.

The net proceeds to be received by the Company from the sale of the Bonds will be applied toward financing its construction program, and, if circumstances warrant, toward partial payment, prior to maturity, of its outstanding nine-

month 4 percent bank notes due October 2, 1957.

Due notice having been given of the filing of said application (Holding Company Act Release No. 13404) and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that the application as amended be granted, effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application as amended be, and hereby is, granted, effective forthwith, subject to the terms and conditions prescribed in Rules U-24 and U-50.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 57-2233; Filed, Mar. 22, 1957;
8:46 a. m.]

SMALL BUSINESS ADMINISTRATION

Office of the Administrator

[SBA Group Loan 2]

GROUP LOAN TO BOSTON FISHERIES COOPERATIVE, INC., FOR BENEFIT OF MEMBER COMPANIES IN PARTICIPATION WITH THE FIRST NATIONAL BANK OF BOSTON

Pursuant to section 207 (a) (2) of the Small Business Act of 1953, as amended, the request of The First National Bank of Boston, Boston, Massachusetts (hereinafter called "Bank"), on an Application dated June 11, 1956, and Boston Fisheries Cooperative, Inc., Boston, Massachusetts (hereinafter called "Borrower"), on an Application dated June 8, 1956, for an immediate participation of 90 percent of a loan in the amount of \$1,000,000 to be made by Bank to Borrower for the benefit of certain members of the Borrower, was approved by the Administrator on July 18, 1956.

The Administrator has found that the operations of Borrower and its member firms in connection with said loan contribute to the needs of small business. Prior to the making of this finding, the Administrator consulted with the Attorney General and with the Chairman of the Federal Trade Commission, and the Attorney General has concurred in writing in such finding and approval.

Borrower and the member firms, namely:

O'Hara Bros.
Bay Fish Co.
Baker, Boies & Watson Co.
Bart Tribuna Co., Inc.
Blue Sea Fish Co.
Boston Fish Co.
Cassius Hunt Co.
Columbia Seafoods, Inc.
Coral Sea Fisheries Inc.
Diamond Fisheries, Inc.
Eastern Seafood Co.
F. E. Harding Co.
Hub Sea Food Corp.

John Mantia & Sons Co., Inc.
L. B. Goodspeed Inc.
New England Fillet Co., Inc.
No. Atlantic Fish Co., Inc.
Shamrock Fisheries, Inc.
Super Snooty Seafood, Inc.
Warren Fitch Co., Inc.

are hereby granted immunity from prosecution under the Federal Antitrust Laws and the Federal Trade Commission Act, insofar as they may apply to the activities of the said Borrower and the said member firms conducted pursuant to the said loan.

Dated: March 12, 1957.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 57-2234; Filed, Mar. 22, 1957;
8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order SA-165]

PRACHOVA S. A. R. DE PETROL

In re: Debt owing to Prachova S. A. R. de Petrol also known as Prachova, Societate Anonima Romana Pentru Industria Miniera. F-57-33.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F. R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F. R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows:

That certain debt or other obligation of Guaranty Trust Company of New York, 140 Broadway, New York 15, New York, arising out of an account entitled, "Prachova, Societate Anonima Romana Pentru Industria Miniera," maintained at the aforesaid bank, together with any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was, owned directly or indirectly by Prachova S. A. R. de Petrol, also known as Prachova, Societate Anonima Romana Pentru Industria Miniera, Bucharest, Rumania, a national of Rumania as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued

by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D. C., on March 19, 1957.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 57-2241; Filed, Mar. 22, 1957;
8:48 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-57]

UNIVERSITY OF BUFFALO

NOTICE OF APPLICATION FOR UTILIZATION FACILITY LICENSE

Please take notice that on March 11, 1957 the University of Buffalo, Buffalo, New York, filed an application under section 104c of the Atomic Energy Act of 1954 for a license to construct and operate a pool-type nuclear reactor designed to operate at one megawatt and to be located on the campus of the University of Buffalo.

A copy of the application is available for public inspection in the AEC Public Document Room located at 1717 H Street NW., Washington, D. C.

Dated at Washington, D. C., this 15th day of March 1957.

For the Atomic Energy Commission.

FRANK K. PITTMAN,
Deputy Director,
Division of Civilian Application.

[F. R. Doc. 57-2218, Filed, Mar. 21, 1957;
8:51 a. m.]

[Docket Nos. 50-55, etc.]

AEROJET-GENERAL CORP. AND AEROJET-GENERAL NUCLEONICS

NOTICE OF APPLICATIONS FOR LICENSES TO ACQUIRE TITLE TO AND TRANSFER TITLE TO UTILIZATION FACILITIES

Please take notice that the following applications have been filed with the Atomic Energy Commission:

Docket Nos. 50-55 and 50-56. Aerojet-General Corporation, Azusa, California, on March 1, 1957, filed applications under section 104 of the Atomic Energy Act of 1954 for licenses to acquire title to the AGN-201 reactors designated as serial numbers 101 through 108 being constructed by Aerojet-General Nucleonics.

Docket Nos. F-32 and F-44. Aerojet-General Nucleonics, San Ramon, California, by an amendment filed on December 3, 1956, requested authorization to transfer title to the AGN-201 reactors designated as serial numbers 101 through 108 to the Aerojet-General Corporation, Azusa, California.

Copies of the applications and the amendment are available for public inspection in the AEC Public Document Room located at 1717 H Street, NW., Washington, D. C.

Dated at Washington, D. C. this 15th day of March 1957.

For the Atomic Energy Commission.

FRANK K. PITTMAN,
Deputy Director,
Division of Civilian Application.

[F. R. Doc. 57-2219; Filed, Mar. 21, 1957;
8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 19, 1957.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 33407: Caustic soda—Alabama points to Pensacola, Fla., group. Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on liquid caustic soda, carloads from Evans City, McIntosh, and Redstone Arsenal, Ala., to Cantonment, Gonzales, North Pensacola, and Pensacola, Fla.

Grounds for relief: Barge and market competition and circuitous routes.

Tariff: Supplement 195 to Agent Spaninger's tariff I. C. C. 1295.

FSA No. 33408: Iron and steel scrap—Mississippi points to Houston, Tex. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on iron and steel scrap, carloads from specified points in Mississippi to Houston, Tex.

Grounds for relief: Circuitous routes.

Tariff: Supplement 190 to Agent Kratzmeir's tariff I. C. C. 4115.

FSA No. 33409: Pig iron—Official territory to North Atlantic Ports. Filed by O. E. Schultz, Agent, for interested rail carriers. Rates on pig iron and related commodities, carloads from specified points in official territory to North Atlantic ports.

Grounds for relief: Export competition with producers at certain points in Canada, export competition with south-

ern ports, port relations and circuitous routes.

Tariffs: Supplement 2 to Baltimore and Ohio Railroad Company's tariff I. C. C. 24325, and supplements to other tariffs of individual lines and Agent H. R. Hinsch listed in exhibit 1 of the application.

FSA No. 33410: *Commodity rates between points in Texas.* Filed by J. F. Brown, Agent, for interested rail carriers. Rates on phosphoric acid, iron or steel absorber tower baffles and parts, plasterboard joint system, and plastics, carloads, also iron or steel cans, less than carloads between points in Texas on interstate traffic.

Grounds for relief: Short-line distance formulas, intrastate competition, and circuitous routes.

Tariff: Supplement 37 to Agent J. F. Brown's tariff I. C. C. 865.

FSA No. 33411: *Commodities between points in Texas.* Filed by J. F. Brown, Agent, for interested rail carriers. Rates on phosphoric acid, carloads and other commodities described in the application between points in Texas, applicable on interstate traffic.

Grounds for relief: Maintenance of depressed rates established to meet intrastate competition without observing such rates as factors in constructing lower combination rates for or to points outside Texas.

Tariff: Supplement 37 to Agent Brown's tariff I. C. C. 865.

FSA No. 33412: *Fertilizer and materials between official and W. T. L. territories.* Filed by O. E. Schultz, Agent, for interested rail carriers. Rates on fertilizer and fertilizer materials, carloads, minimum 40,000 pounds between points in official territory, on the one hand, and points in central and western trunk line territories, on the other, as described in the application.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 60 to Agent H. R. Hinsch's tariff I. C. C. 4662. Supplement 22 to Agent H. R. Hinsch's tariff I. C. C. 4720.

FSA No. 33413: *Petroleum and products—Southwest to Illinois points.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on petroleum and related articles, carloads from specified points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma and Texas to Choat, Mermet and Metropolis, Ill.

Grounds for relief: Maintenance of destination group relations, and circuitous routes.

Tariff: Supplement 305 to Agent Kratzmeir's tariff I. C. C. 3825.

FSA No. 33414: *Fertilizer and materials between southwestern and official territories.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on fertilizer and fertilizer materials, carloads, also superphosphate, carloads between points in southwestern territory, on the one hand, and points in official territory, on the other.

Grounds for relief: Short-line distance formulas, and circuitous routes.

Tariff: Supplement 199 to Agent Kratzmeir's tariff I. C. C. 4112.

FSA No. 33415: *Rock salt—Detroit, Mich., to South Charleston, W. Va.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on rock salt, loose in bulk, carloads from Detroit, Mich., to South Charleston, W. Va.

Grounds for relief: Market competition from Louisiana points via barge, and circuitous routes.

Tariff: Supplement 58 to Agent Hinsch's tariff I. C. C. 4198.

FSA No. 33416: *Fertilizer solutions from Belle, W. Va., and Lima, Ohio.* Filed by O. E. Schultz, Agent, for interested rail carriers. Rates on fertilizer ammoniating solution and nitrogen fertilizer solution, tank-car loads from Belle, W. Va., and Lima, Ohio to points in Kentucky, North Carolina, Tennessee and Virginia.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 22 to Agent H. R. Hinsch's tariff I. C. C. 4526.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 57-2192; Filed, Mar. 21, 1957;
8:46 a. m.]

[No. 32067]

KANSAS

INTRASTATE FREIGHT RATES AND CHARGES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 12th day of March A. D. 1957.

It appearing, that upon petition, dated October 26, 1956, filed by The Atchison, Topeka and Santa Fe Railway Company and other common carriers by railroad operating to, from, and between points in the State of Kansas, averring that the State Corporation Commission of Kansas has refused to authorize or permit said petitioners to apply to the transportation of certain commodities and traffic moving intrastate by railroad in Kansas, increases in freight rates and charges corresponding to those approved in Ex Parte No. 196, Increased Freight Rates, 1956, 298 I. C. C. 279, the Commission, by Division 2, entered an order on December 6, 1956, instituting an investigation thereon under section 13 of the Interstate Commerce Act:

It further appearing, that a petition has been filed dated January 16, 1957, stating that petitioners failed to state in their petition of October 26, 1956, that the Kansas Commission in its order of December 14, 1955, in Docket No. 41290-R, had removed the Ex Parte No. 175 increases from intrastate rates on cement and that as a result, such rates also violate the Interstate Commerce Act in the same manner as the other actions of that Commission described in the said petition; and requesting the Commission to amend its order of December 6, 1956, to include such intrastate line-haul rates on cement:

It is ordered, That said petition dated January 16, 1957, be, and it is hereby, granted:

It is further ordered, That the order of the Commission dated December 6, 1956, be, and it is hereby, amended so as to include rates on cement moving intrastate in the State of Kansas which fail also to include increases on cement in interstate commerce authorized by this Commission in Ex Parte No. 175, Increased Freight Rates, 1951, 280 I. C. C. 179, 281 I. C. C. 557, 284 I. C. C. 509 and 289 I. C. C. 395;

And it is further ordered, That notice of this amendment be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register, Washington, D. C.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 57-2236; Filed, Mar. 22, 1957;
8:46 a. m.]

[No. MC-C-2094]

CHROMIC ACID; BALTIMORE, MD. TO
DETROIT, MICH.

RATES AND CHARGES

At a session of the Interstate Commerce Commission, Board of Suspension, held at its office in Washington, D. C., on the 11th day of March A. D. 1957.

There being under consideration the matter of rates and charges, and the rules, regulations and practices affecting such rates and charges, applicable on interstate or foreign commerce of chromic acid, minimum 25,000 pounds, from Baltimore, Md. to Detroit, Mich., as set forth in:

The Eastern Central Motor Carriers Association, Inc., Agent: On original page 331-A to MF-I. C. C. No. A-114, in Item Number 1325, the rate of 98 cents;

It appearing, that upon consideration of the tariff schedules and protests thereto, there is reason to institute an investigation to determine whether they result in rates and charges, rules or regulations and practices that are unjust and unreasonable in violation of the Interstate Commerce Act; and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted into and concerning the lawfulness of the rates, charges, rules, regulations and practices contained in said schedules, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant.

It is further ordered, That the investigation in this proceeding shall not be confined to the matters and issues hereinbefore stated as the reason for instituting this investigation, but shall include all matters and issues with respect to the lawfulness of the said rates, charges, rules, regulations and practices under the Interstate Commerce Act.

It is further ordered, That the carriers parties to the said schedules be, and they are hereby, made respondents to this proceeding; that a copy of this order be forthwith served upon the said respondents; and that a notice of this proceeding be given to the public by posting a copy of this order in the office of the Secretary of the Commission, and by filing a copy with the Director, Division of the Federal Register.

And it is further ordered, That this matter be assigned for hearing at a time and place to be hereafter fixed.

By the Commission, Board of Suspension.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 57-2237; Filed, Mar. 22, 1957;
8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 445]

MARKET AGENCIES AT FORT WORTH STOCK YARDS

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), an order was issued on April 22, 1955 (14 A. D. 274), continuing in effect to and including April 30, 1957, the order of April 25, 1952 (11 A. D. 360), as corrected by the order of May 1, 1952 (11 A. D. 434), which authorized respondents, Market Agencies at the Fort Worth Stock Yards, Fort Worth, Texas, to assess the current temporary schedule of rates and charges as set out in respondents' Joint Tariff No. 11.

By documents filed with the Hearing Clerk on February 25 and March 12, 1957, respondents requested authority to put into effect certain modifications in the rates and charges set forth in Article II and Article III of Joint Tariff No. 11. The modified rates and charges petitioned for in Article II are set forth below.

ARTICLE II

SCHEDULE FOR SELLING OR FOR BUYING ON ORDER

	Proposed rate per head
Bulls: 1 head or more.....	\$1.85
Calves:	
Consignments of 1 head and 1 head only.....	.85
Consignments of more than 1 head: First 15 head in each consignment.....	.70
Each head over 15 in each consignment.....	.60
Cattle:	
Consignments of 1 head and 1 head only.....	1.45
Consignments of more than 1 head: First 15 head in each consignment.....	1.30
Each head over 15 in each consignment.....	1.15
Hogs:	
Consignments of 1 head and 1 head only.....	.60
Consignments of more than 1 head: First 25 head in each consignment.....	.50
Each head over 25 in each consignment.....	.40
Sheep:	
Consignments of 1 head and 1 head only.....	.50
Consignments of more than 1 head: First 10 head in each 250 head in each consignment.....	.35
Next 50 head in each 250 head in each consignment.....	.25
Next 60 head in each 250 head in each consignment.....	.20
Next 130 head in each 250 head in each consignment.....	.12

The modification petitioned for in Article III of Joint Tariff No. 11 would change the second paragraph of the Article to read:

Purchase Order, when it is necessary to purchase from more than three market agencies and/or dealers a charge of 50 cents shall be made for each market agency and/or dealer over three from which Purchase Order is made.....\$0.50

The modifications, if authorized, will produce additional revenue for the respondents and increase the cost of marketing livestock. It appears, therefore, that this public notice of the filing of the petition and its contents should be given in order that all interested persons

may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days after the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 19th day of March 1957.

[SEAL]

JOHN C. PIERCE, JR.,
Acting Director, Livestock Division,
Agricultural Marketing Service.

[F. R. Doc. 57-2240; Filed, Mar. 22, 1957;
8:48 a. m.]

Office of the Secretary

NEBRASKA

DISASTER ASSISTANCE; DELINEATION OF DROUGHT AREA

Pursuant to Public Law 875, 81st Congress, the President determined on July 19, 1956, that a major disaster occasioned by drought existed in the State of Nebraska.

Pursuant to the authority delegated to me by the Administrator, Federal Civil Defense Administration (18 F. R. 4609; 19 F. R. 2148, 5364), and for the purposes of section 2 (d) of Public Law 38, 81st Congress, as amended by Public Law 115, 83d Congress, and section 301 of Public Law 480, 83d Congress, the following counties were determined on March 13, 1957, to be affected by the above-mentioned major disaster:

NEBRASKA

NEMAHA COUNTY

The non-irrigated section of Dawson County lying north of the Platte River Valley.

Done at Washington, D. C., this 20th day of March 1957.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-2254; Filed, Mar. 22, 1957;
8:50 a. m.]